

AMENDED IN ASSEMBLY JULY 6, 2009

AMENDED IN ASSEMBLY JUNE 15, 2009

AMENDED IN SENATE MAY 20, 2009

AMENDED IN SENATE APRIL 30, 2009

AMENDED IN SENATE APRIL 16, 2009

## SENATE BILL

**No. 821**

**Introduced by Committee on Business, Professions and Economic Development (Senators Negrete McLeod (Chair), Aanestad, Corbett, Correa, Florez, Oropeza, Romero, Walters, Wyland, and Yee)**

March 10, 2009

An act to amend Sections ~~805, 139, 146, 805, 1632.5, 1634.2, 2493, 2530.2, 2532.2, 2532.7, 2570.2, 2570.3, 2570.4, 2570.5, 2570.6, 2570.7, 2570.9, 2570.10, 2570.13, 2570.16, 2570.18, 2570.20, 2570.26, 2570.28, 2571, 2872.2, 3357, 3362, 3366, 3456, 3740, 3750.5, 3773, 4101, 4112, 4113, 4160, 4196, 4200.3, 4200.4, 4510.1, 4933, 4938, 4980.45, 4980.48, 4982, 4982.2, 4989.22, 4989.54, 4992.1, 4992.3, 4996.23, 4996.28, 4996.5, and 4999.2~~ 4999.2, 5016, 5021, 5022, 5023, 5651, 7028.7, 7044, 7159, 7159.5, 7159.14, 7303.2, 7500.1, 7505.5, 7507.9, 7507.12, 7606, 7616, 7641, 7643, 7646, 7647, 7662, 7665, 7666, 7671, 7725.5, 7729, 9884.2, 9884.7, 9884.12, 9889.3, and 10146 of, to add Sections 2532.25, 2570.17, 4013, 4146, 4989.49, 4992.2, ~~and 4996.24~~ 4996.24, 5515.5, 7044.01, and 7507.115 to, ~~and~~ to repeal Sections ~~821.5 and 821.6~~ 821.5, 821.6, and 6763.1 of, and to repeal and add Section 7108.5 of, of, the Business and Professions Code, to amend ~~Section~~ Sections 44014.2, 44017.3, 44072.1, 44072.2, 44095, and 123105 of the Health and Safety Code, to amend Sections 28, 5201, and 24603 of

*the Vehicle Code*, and to amend Section 3 of Chapter 294 of the Statutes of 2004, relating to ~~healing arts consumer affairs~~.

## LEGISLATIVE COUNSEL'S DIGEST

SB 821, as amended, Committee on Business, Professions and Economic Development. ~~Healing arts: licensees. Consumer affairs: professions and vocations.~~

(1) Existing law provides for the licensure and regulation of various professions and vocations by boards and bureaus within the Department of Consumer Affairs. Existing law requires that certain examinations for licensure be developed by or in consultation with the Office of Examination Resources in the department, as specified.

This bill would rename that office the Office of Professional Examination Services.

(2) Existing law prohibits a person from holding himself or herself out to the public as a professional fiduciary without a license. Existing law specifies that a violation of certain requirements to be registered, licensed, or certified to engage in certain businesses is punishable as an infraction subject to specified procedures and fines.

This bill would make a violation of the professional fiduciary licensure requirement punishable as an infraction, thereby imposing a state-mandated local program.

~~(1)~~

(3) Existing law provides for the professional review of specified healing arts licentiates through a peer review process, and requires the peer review body to report to the relevant agency upon certain circumstances, including circumstances related to an obsolete diversion program.

This bill would include within the definition “licentiate” a holder of a special faculty permit to practice medicine within a medical school. The bill would also delete the peer review provisions related to the obsolete diversion program.

(4) Existing law, the Bagley-Keene Open Meeting Act, requires a state body, as defined, to provide prescribed notice of its meetings to any person who requests that notice in writing. Existing law provides for the licensure and regulation of accountants by the California Board of Accountancy and requires the executive officer of the board to give at least 7 days' notice of board meetings. Existing law authorizes the board to appoint an administrative committee and an advisory

*committee for certain purposes and requires members of the administrative committee to hold office for one year.*

*This bill would designate the advisory committee as the qualifications committee and would require members of that committee and the administrative committee to hold office for 2 years. The bill would require notice of each meeting of the board to be given in accordance with the Bagley-Keene Open Meeting Act.*

*(5) Existing law, the Architects Practice Act, provides for the licensure and regulation of architects by the California Architects Board. Under existing law, the board is composed of 5 architect members and 5 public members. Existing law requires that each appointment to the board expire on June 30 of the 4th year following the year in which the previous term expired.*

*This bill would modify the term length for certain members of the board.*

*(6) Existing law provides for the licensure and regulation of landscape architects by the California Architects Board. Existing law requires the board to ascertain the qualifications of applicants for a license by means of written examination. Under existing law, the board may waive the written examination for a person licensed out of state, as specified, if the person has passed an equivalent examination and a supplemental examination, as specified.*

*This bill would also require an out-of-state licensee to submit proof of job experience equivalent to that required of California applicants in order to waive the written examination.*

*(7) Existing law, the Professional Engineers Act, provides for the licensure and regulation of professional engineers by the Board for Professional Engineers and Land Surveyors within the department. Under existing law, in order to use the title “structural engineer,” a person must, in addition to passing the examination prescribed by the board, successfully pass a written test incorporating a national examination for structural engineering by a nationally recognized entity approved by the board, and a supplemental California specific examination.*

*This bill would eliminate the requirement to successfully pass those examinations, so that only the board-prescribed examination would be required.*

*(8) Existing law, the Contractors’ State License Law, provides for the licensure and regulation of contractors by the Contractors’ State License Board. Existing law imposes specified requirements on home*

*improvement contracts and service and repair contracts and requires contractors to pay subcontractors within a specified period of time. Existing law makes it a misdemeanor for a person to engage in the business or act in the capacity of a contractor without a license and provides certain exemptions from that licensure requirement, including exemptions for owner-builders, as specified. Existing law authorizes the Registrar of Contractors to issue citations for violations of that licensure requirement, as specified.*

*This bill would make various technical, nonsubstantive changes to those provisions.*

*Under existing law, a person who violates the law by engaging in work as an owner-builder without a contractor's license or an exemption from licensure is prohibited from obtaining a contractor's license for a period of one year following the violation.*

*This bill would delete that prohibition.*

~~(2)~~

(9) Existing law provides for the licensure and regulation of speech-language pathologists and audiologists by the Speech-Language Pathology and Audiology Board. Existing law provides that an audiology aide is any person who meets the minimum requirements of the board and who works directly under the supervision of an audiologist.

This bill would prohibit an audiology aide from performing any function that constitutes the practice of audiology unless he or she is under the supervision of an audiologist, except if the board exempts certain functions performed by an industrial audiology aide and if the employer establishes a set of procedures or protocols.

Existing law requires an applicant for licensure as an audiologist to meet specified educational and curriculum standards, including possession of at least a master's degree in audiology.

This bill would revise the educational and curriculum standards for licensure as an audiologist, as specified, and instead require possession of a doctorate in audiology. The bill would apply those requirements to applicants who graduate from an approved educational institution on or after January 1, 2008. The bill would make conforming changes to provisions related to the issuance of a required professional experience (RPE) temporary license, as specified.

~~(3)~~

(10) The Occupational Therapy Practice Act provides for the licensure and regulation of occupational therapists and occupational therapist assistants. Existing law prohibits an occupational therapy assistant from

supervising an aide engaged in client-related tasks. Existing law also provides for minimizing the risk of transmission of blood-borne infectious diseases.

This bill would authorize occupational therapy assistants to supervise aides engaged in client-related tasks, and make conforming changes. The bill would delete obsolete certification terms and replace them with licensure references. The bill would provide for minimizing the risk of transmission of infectious diseases.

Under the Occupational Therapy Practice Act, occupational therapists and occupational therapy assistants are subject to licensure and regulation by the California Board of Occupational Therapy and specified licensure fees, which are deposited into the Occupational Therapy Fund.

This bill would require the board to issue retired licenses to certain occupational therapists or occupational therapy assistants, as specified, subject to a \$25 fee.

Existing law regulates telephone medical advice services, and requires all staff who provide medical advice services to be appropriately licensed, certified, or registered professionals, as specified.

This bill would add occupational therapists to the enumerated professionals authorized to provide telephone medical advice.

Existing law imposes specified recordkeeping and disclosure requirements on health care providers, as defined.

This bill would impose those requirements on occupational therapists.

(4)

(11) Existing law provides for the licensure and regulation of vocational nurses and psychiatric technicians by the Board of Vocational Nursing and Psychiatric Technicians of the State of California. Existing law provides, upon application, for the issuance of an interim permit authorizing an applicant to practice vocational nursing or, in the case of a psychiatric technician, all skills in his or her basic course of study, pending the results of a licensing examination.

This bill would require the application for an interim permit to be submitted no later than 4 months after completion of a board-accredited program, and would limit the use of the permit to 9 months, as specified.

(5)

(12) Existing law provides for the licensure and regulation of hearing aid dispensers by the Hearing Aid Dispensers Bureau, and a person who violates that law is guilty of a misdemeanor. Existing law provides for the issuance of a temporary license to an applicant who has made

application for licensure and who proves that he or she will be supervised and trained by a hearing aid dispenser, pending approval by the board. A temporary license is effective and valid for 6 months, and may be renewed twice for an additional period of 6 months.

This bill would allow for the issuance of a new temporary license if more than 3 years have lapsed from the expiration or cancellation date of a previous temporary license.

Existing law requires a person engaging in the practice of fitting or selling hearing aids to notify the bureau in writing of his or her business address or addresses or changes in that address or addresses. Existing law requires a licensee to keep and maintain his or her business records for a 7-year period.

This bill would require the written notification to be given to the bureau within a 30-day period. The bill would also require a licensee to allow his or her business records, as specified, to be inspected by the bureau upon reasonable notice. Because a violation of those provisions would be a crime, the bill would impose a state-mandated local program.

Existing law allows the bureau to impose upon licensees specified licensure fees and penalties, including a fee for a continuing education course transcript and for a license confirmation letter.

This bill would delete those transcript and letter fee provisions.

(6)

(13) The Respiratory Care Practice Act provides for the licensure and regulation of respiratory care practitioners by the Respiratory Care Board of California. The act authorizes the board to deny, suspend, or revoke the license of any applicant or licensee who has committed a specified violation, including obtaining or possessing in violation of law or, except as directed by a licensed physician and surgeon, dentist, or podiatrist, furnishing or administering to himself or herself or another a controlled substance, as defined.

This bill would clarify that the licensee is prohibited from obtaining, possessing, using, or administering to himself or herself in violation of law, or furnishing or administering to another, any controlled substance, as defined, except as directed by a licensed physician and surgeon, dentist, podiatrist, or other authorized health care provider. The bill would also subject to disciplinary action a licensee who uses alcoholic beverages to an extent that is injurious to self or others or if it impairs his or her ability to conduct with safety the practice of respiratory care. For a violation thereof, the bill would specify that the board is authorized to place the license of an applicant or licensee on probation. The bill

would also require a renewing applicant for licensure to provide additional information requested by the board and, if the applicant fails to provide that information within 30 days of the request, his or her license would be made inactive until the information is received.

~~(7)~~

(14) The Pharmacy Law provides for the licensure and regulation of pharmacists and pharmacy establishments by the California State Board of Pharmacy, and makes a knowing violation of the law a misdemeanor.

On and after July 1, 2010, this bill would require any facility licensed by the board to join the board's e-mail notification list and make specified e-mail address updates. The bill would also require nonresident pharmacies to obtain licensure from the board, and would make certain changes with regard to pharmacists-in-charge of a pharmacy, representatives-in-charge of the wholesale of any dangerous drug or device, and representatives-in-charge of veterinary food-animal drug retailers, and respective notification requirements. The bill would also allow a pharmacy to accept the return of needles and syringes from the public if contained in a sharps container, as defined. Because a knowing violation of those provisions would be a crime, the bill would impose a state-mandated local program.

~~(8)~~

(15) Existing law provides for the licensure and regulation of acupuncturists by the Acupuncture Board. Existing law provides that 5 members of the board shall constitute a quorum.

This bill would provide that 4 members, including at least one acupuncturist, shall constitute a quorum.

~~(9)~~

(16) Existing law provides for the licensure and regulation of marriage and family therapists by the Board of Behavioral Sciences, and makes a violation of the law a misdemeanor.

This bill would delete references to the employment of unlicensed interns and instead refer to marriage and family therapy interns or associate clinical social workers, and would apply specified disciplinary and probationary provisions to registered marriage and family therapy interns and associate clinical social workers. The bill would require any person that advertises services performed by a trainee, as defined, to include the trainee's name and supervisor information. Because a violation of this requirement would be a crime, the bill would impose a state-mandated local program. The bill would additionally modify the disciplinary provisions that apply to marriage and family therapists, as

specified, and the licensure provisions that apply to an applicant pending investigation of a complaint.

~~(10)~~

(17) Existing law provides for the regulation of educational psychologists by the Board of Behavioral Sciences, and makes a violation of the law a misdemeanor. Existing law sets forth certain prohibited acts that subject a licensee to disciplinary action.

This bill would add to those prohibited acts provisions related to drug use, telemedicine consent, subversion of an examination, impersonation, incompetence, and fraudulent advertising. The bill would define the term “advertising” for purposes of those provisions.

~~(11)~~

(18) Existing law provides for the regulation of clinical social workers by the Board of Behavioral Sciences. Existing law sets forth certain prohibited acts that subject a licensee to disciplinary action.

This bill would add to those prohibited acts provisions related to the subversion of an examination, access to certain psychological tests, and advertising. The bill would define the term “advertising” for purposes of those provisions. The bill would additionally modify the licensure provisions that apply to an applicant pending investigation of a complaint. The bill would modify provisions related to the supervision and employment of clinical social workers or associate clinical social workers, as specified.

~~(12)~~

(19) Existing law appropriates specified sums from the State Dental Auxiliary Fund to the Committee on Dental Auxiliaries for operating expenses necessary to manage the dental hygiene licensing examination. Existing law requires the Dental Hygiene Committee of California to administer the dental hygiene licensing examination. Existing law also provides that on and after July 1, 2009, specified moneys are to be transferred from the State Dental Auxiliary Fund to the State Dental Hygiene Fund for purposes of carrying out certain provisions of the Dental Practice Act, including the payment of any encumbrances, related to dental hygienists, dental hygienists in alternative practice, and dental hygienists in extended functions.

This bill would specify that the moneys for operating the dental hygiene licensing examination are to be transferred to the Dental Hygiene Committee of California from the State Dental Hygiene Fund.

(20) *Existing law, the Collateral Recovery Act, provides for the licensure and regulation of repossession agencies by the Bureau of*



*Security and Investigative Services under the supervision and control of the Director of Consumer Affairs. The act defines “collateral” as any vehicle, boat, recreational vehicle, motor home, appliance, or other property that is subject to a security agreement. Under the act, a person may be actively in charge of only one repossession office at a time. A violation of the act is a misdemeanor.*

*This bill would specify that the act also applies to trailers and would authorize a person to be actively in charge of 2 repossession offices at a time. The bill would prohibit a licensee from appraising the value of any collateral. Because a violation of that prohibition would be a crime, the bill would impose a state-mandated local program.*

*(21) Existing law sets forth a procedure for the removal, inventory, and storage of personal effects from repossessed collateral. Existing law allows a debtor to waive the preparation and presentation of an inventory in certain circumstances and authorizes a repossession agency to release those personal effects to someone other than the debtor when authorized by the debtor or legal owner. Existing law requires specified special interest license plates that remain the personal effects of the debtor to be removed from the collateral and inventoried and requires the destruction of those plates and notification to the Department of Motor Vehicles if the plates are not claimed by the debtor within 60 days.*

*This bill would authorize a debtor to make that waiver only with the consent of the licensee and would authorize the release of personal effects to someone other than the debtor only when authorized by the debtor. The bill would also authorize a licensee to retain those special interest license plates indefinitely for return to the debtor, as specified.*

*Existing law provides that whenever possession is taken of any vehicle by or on behalf of any legal owner under the terms of a security agreement or lease agreement, the person taking possession is required to notify specified law enforcement agencies within one hour after taking possession of the vehicle and by the most expeditious means available. Failure to provide that notice is an infraction.*

*This bill would require separate notifications for multiple vehicle repossessions. By changing the definition of a crime, the bill would impose a state-mandated local program.*

*(22) Existing law, the Funeral Directors and Embalmers Law, provides for the licensure and regulation of embalmers and funeral directors by the Cemetery and Funeral Bureau. Existing law requires an applicant for an embalmer’s license to, among other things, have*

*successfully completed a course of instruction in a specified embalming school and to either furnish proof of completion of a high school course or evidence of licensure and practice for a certain period of time prior to application.*

*This bill would instead require the applicant to have graduated from a specified mortuary science program and to furnish official transcripts from that program. The bill would make other conforming changes.*

*Existing law requires the applicant to pass an examination including specified subjects and requires the bureau to examine applicants at least once annually.*

*This bill would require the applicant to pass the sciences section of a specified national examination and an examination on the state's laws and the rules and regulations of the bureau and would delete the requirement that the board examine applicants at least once annually. The bill would, until June 30, 2010, authorize an applicant who failed the examination previously administered by the bureau to retake that examination.*

*(23) Existing law, the Real Estate Law, provides for the licensure and regulation of real estate brokers and salespersons by the Real Estate Commissioner. Existing law authorizes the commissioner to issue rules and regulations he or she deems necessary to regulate the method of accounting and to accomplish certain purposes related to advance fees, as specified.*

*This bill would make certain nonsubstantive, technical changes to those provisions.*

*(24) Existing law, the Automotive Repair Act, provides for the registration, licensure, and regulation of automotive repair dealers, lamp and brake adjusting stations, and smog check stations and technicians by the Bureau of Automotive Repair in the Department of Consumer Affairs and requires the Director of Consumer Affairs to validate an automotive repair dealer registration upon receipt of a specified form and fee. Existing law authorizes the director to refuse to validate or invalidate that registration for, among other things, a conviction for providing consideration to insurance agents for referrals. Under existing law, the director may deny, suspend, revoke, or take other disciplinary action against lamp and brake adjusting station or smog check station and technician applicants and licensees for, among other things, the conviction of a crime substantially related to the qualifications, functions, and duties of the licensee.*

*This bill would require the director to issue an automotive repair dealer registration upon receipt of a specified form and fee and would authorize the director to deny, suspend, revoke, or place on probation a registration for, among other things, conviction of a crime that is substantially related to the qualifications, functions, or duties of an automotive repair dealer. The bill would also authorize the director to deny, suspend, revoke, or take other disciplinary action against lamp and brake adjusting station and smog check station and technician applicants and licensees for the conviction of a crime substantially related to the qualifications, functions, or duties of that licensee.*

*(25) Existing law establishes the vehicle inspection and maintenance (smog check) program, administered by the Department of Consumer Affairs and prescribes certain cost limits for repairs under the program. Existing law requires a smog check station where smog check inspections are performed to post a sign advising customers of those cost limits.*

*This bill would instead require the department to provide licensed smog check stations with a sign informing customers about their options when a vehicle fails a smog check inspection, as specified.*

*The bill would revise provisions relating to repair assistance agreements and would make other technical, nonsubstantive changes.*

~~(13)~~

*(26) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

*Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.*

*The people of the State of California do enact as follows:*

1     **SECTION 1.** *Section 139 of the Business and Professions Code*  
2     *is amended to read:*

3     139. (a) The Legislature finds and declares that occupational  
4     analyses and examination validation studies are fundamental  
5     components of licensure programs. It is the intent of the Legislature  
6     that the policy developed by the department pursuant to subdivision  
7     (b) be used by the fiscal, policy, and sunset review committees of

1 the Legislature in their annual reviews of these boards, programs,  
2 and bureaus.

3 (b) Notwithstanding any other provision of law, the department  
4 shall develop, in consultation with the boards, programs, bureaus,  
5 and divisions under its jurisdiction, and the Osteopathic Medical  
6 Board of California and the State Board of Chiropractic Examiners,  
7 a policy regarding examination development and validation, and  
8 occupational analysis. The department shall finalize and distribute  
9 this policy by September 30, 1999, to each of the boards, programs,  
10 bureaus, and divisions under its jurisdiction and to the Osteopathic  
11 Medical Board of California and the State Board of Chiropractic  
12 Examiners. This policy shall be submitted in draft form at least 30  
13 days prior to that date to the appropriate fiscal, policy, and sunset  
14 review committees of the Legislature for review. This policy shall  
15 address, but shall not be limited to, the following issues:

16 (1) An appropriate schedule for examination validation and  
17 occupational analyses, and circumstances under which more  
18 frequent reviews are appropriate.

19 (2) Minimum requirements for psychometrically sound  
20 examination validation, examination development, and  
21 occupational analyses, including standards for sufficient number  
22 of test items.

23 (3) Standards for review of state and national examinations.

24 (4) Setting of passing standards.

25 (5) Appropriate funding sources for examination validations  
26 and occupational analyses.

27 (6) Conditions under which boards, programs, and bureaus  
28 should use internal and external entities to conduct these reviews.

29 (7) Standards for determining appropriate costs of reviews of  
30 different types of examinations, measured in terms of hours  
31 required.

32 (8) Conditions under which it is appropriate to fund permanent  
33 and limited term positions within a board, program, or bureau to  
34 manage these reviews.

35 (c) Every regulatory board and bureau, as defined in Section  
36 22, and every program and bureau administered by the department,  
37 the Osteopathic Medical Board of California, and the State Board  
38 of Chiropractic Examiners, shall submit to the director on or before  
39 December 1, 1999, and on or before December 1 of each  
40 subsequent year, its method for ensuring that every licensing

1 examination administered by or pursuant to contract with the board  
2 is subject to periodic evaluation. The evaluation shall include (1)  
3 a description of the occupational analysis serving as the basis for  
4 the examination; (2) sufficient item analysis data to permit a  
5 psychometric evaluation of the items; (3) an assessment of the  
6 appropriateness of prerequisites for admittance to the examination;  
7 and (4) an estimate of the costs and personnel required to perform  
8 these functions. The evaluation shall be revised and a new  
9 evaluation submitted to the director whenever, in the judgment of  
10 the board, program, or bureau, there is a substantial change in the  
11 examination or the prerequisites for admittance to the examination.

12 (d) The evaluation may be conducted by the board, program,  
13 or bureau, the Office of *Professional Examination-Resources*  
14 *Services* of the department, the Osteopathic Medical Board of  
15 California, or the State Board of Chiropractic Examiners or  
16 pursuant to a contract with a qualified private testing firm. A board,  
17 program, or bureau that provides for development or administration  
18 of a licensing examination pursuant to contract with a public or  
19 private entity may rely on an occupational analysis or item analysis  
20 conducted by that entity. The department shall compile this  
21 information, along with a schedule specifying when examination  
22 validations and occupational analyses shall be performed, and  
23 submit it to the appropriate fiscal, policy, and sunset review  
24 committees of the Legislature by September 30 of each year. It is  
25 the intent of the Legislature that the method specified in this report  
26 be consistent with the policy developed by the department pursuant  
27 to subdivision (b).

28 *SEC. 2. Section 146 of the Business and Professions Code is*  
29 *amended to read:*

30 146. (a) Notwithstanding any other provision of law, a  
31 violation of any code section listed in subdivision (c) or (d) is an  
32 infraction subject to the procedures described in Sections 19.6 and  
33 19.7 of the Penal Code when:

34 (1) A complaint or a written notice to appear in court pursuant  
35 to Chapter 5c (commencing with Section 853.5) of Title 3 of Part  
36 2 of the Penal Code is filed in court charging the offense as an  
37 infraction unless the defendant, at the time he or she is arraigned,  
38 after being advised of his or her rights, elects to have the case  
39 proceed as a misdemeanor, or

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivisions (c) and (d) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

(1) Sections 2052 and 2054.

(2) Section 2630.

(3) Section 2903.

(4) Section 3660.

(5) Sections 3760 and 3761.

(6) Section 4080.

(7) Section 4825.

(8) Section 4935.

(9) Section 4980.

(10) Section 4996.

(11) Section 5536.

(12) Section ~~6704~~ 6530.

(13) Section ~~6980.10~~ 6704.

(14) Section ~~7317~~ 6980.10.

(15) Section 7317.

~~(15)~~

(16) Section 7502 or 7592.

~~(16)~~

(17) Section 7520.

~~(17)~~

(18) Section 7617 or 7641.

~~(18)~~

(19) Subdivision (a) of Section 7872.

~~(19)~~

(20) Section 8016.

~~(20)~~

(21) Section 8505.

~~(21)~~

(22) Section 8725.

~~(22)~~

(23) Section 9681.

~~(23)~~

(24) Section 9840.

~~(24)~~

(25) Subdivision (c) of Section 9891.24.

~~(25)~~

(26) Section 19049.

(d) Institutions that are required to register with the Bureau for Private Postsecondary and Vocational Education pursuant to Section 94931 of the Education Code.

(e) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c) or (d), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation which was the basis for his or her conviction.

**SECTION 1.**

*SEC. 3.* Section 805 of the Business and Professions Code is amended to read:

805. (a) As used in this section, the following terms have the following definitions:

(1) “Peer review body” includes:

(A) A medical or professional staff of any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or of a facility certified to participate in the federal Medicare Program as an ambulatory surgical center.

(B) A health care service plan registered under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that contracts with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code.

(C) Any medical, psychological, marriage and family therapy, social work, dental, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county),

1 which is not organized for profit and which has been determined  
2 to be exempt from taxes pursuant to Section 23701 of the Revenue  
3 and Taxation Code.

4 (D) A committee organized by any entity consisting of or  
5 employing more than 25 licentiates of the same class that functions  
6 for the purpose of reviewing the quality of professional care  
7 provided by members or employees of that entity.

8 (2) “Licentiate” means a physician and surgeon, doctor of  
9 podiatric medicine, clinical psychologist, marriage and family  
10 therapist, clinical social worker, or dentist. “Licentiate” also  
11 includes a person authorized to practice medicine pursuant to  
12 Section 2113 or 2168.

13 (3) “Agency” means the relevant state licensing agency having  
14 regulatory jurisdiction over the licentiates listed in paragraph (2).

15 (4) “Staff privileges” means any arrangement under which a  
16 licentiate is allowed to practice in or provide care for patients in  
17 a health facility. Those arrangements shall include, but are not  
18 limited to, full staff privileges, active staff privileges, limited staff  
19 privileges, auxiliary staff privileges, provisional staff privileges,  
20 temporary staff privileges, courtesy staff privileges, locum tenens  
21 arrangements, and contractual arrangements to provide professional  
22 services, including, but not limited to, arrangements to provide  
23 outpatient services.

24 (5) “Denial or termination of staff privileges, membership, or  
25 employment” includes failure or refusal to renew a contract or to  
26 renew, extend, or reestablish any staff privileges, if the action is  
27 based on medical disciplinary cause or reason.

28 (6) “Medical disciplinary cause or reason” means that aspect  
29 of a licentiate’s competence or professional conduct that is  
30 reasonably likely to be detrimental to patient safety or to the  
31 delivery of patient care.

32 (7) “805 report” means the written report required under  
33 subdivision (b).

34 (b) The chief of staff of a medical or professional staff or other  
35 chief executive officer, medical director, or administrator of any  
36 peer review body and the chief executive officer or administrator  
37 of any licensed health care facility or clinic shall file an 805 report  
38 with the relevant agency within 15 days after the effective date of  
39 any of the following that occur as a result of an action of a peer  
40 review body:



1 (1) A licentiate's application for staff privileges or membership  
2 is denied or rejected for a medical disciplinary cause or reason.

3 (2) A licentiate's membership, staff privileges, or employment  
4 is terminated or revoked for a medical disciplinary cause or reason.

5 (3) Restrictions are imposed, or voluntarily accepted, on staff  
6 privileges, membership, or employment for a cumulative total of  
7 30 days or more for any 12-month period, for a medical disciplinary  
8 cause or reason.

9 (c) The chief of staff of a medical or professional staff or other  
10 chief executive officer, medical director, or administrator of any  
11 peer review body and the chief executive officer or administrator  
12 of any licensed health care facility or clinic shall file an 805 report  
13 with the relevant agency within 15 days after any of the following  
14 occur after notice of either an impending investigation or the denial  
15 or rejection of the application for a medical disciplinary cause or  
16 reason:

17 (1) Resignation or leave of absence from membership, staff, or  
18 employment.

19 (2) The withdrawal or abandonment of a licentiate's application  
20 for staff privileges or membership.

21 (3) The request for renewal of those privileges or membership  
22 is withdrawn or abandoned.

23 (d) For purposes of filing an 805 report, the signature of at least  
24 one of the individuals indicated in subdivision (b) or (c) on the  
25 completed form shall constitute compliance with the requirement  
26 to file the report.

27 (e) An 805 report shall also be filed within 15 days following  
28 the imposition of summary suspension of staff privileges,  
29 membership, or employment, if the summary suspension remains  
30 in effect for a period in excess of 14 days.

31 (f) A copy of the 805 report, and a notice advising the licentiate  
32 of his or her right to submit additional statements or other  
33 information pursuant to Section 800, shall be sent by the peer  
34 review body to the licentiate named in the report.

35 The information to be reported in an 805 report shall include the  
36 name and license number of the licentiate involved, a description  
37 of the facts and circumstances of the medical disciplinary cause  
38 or reason, and any other relevant information deemed appropriate  
39 by the reporter.

1 A supplemental report shall also be made within 30 days  
2 following the date the licensee is deemed to have satisfied any  
3 terms, conditions, or sanctions imposed as disciplinary action by  
4 the reporting peer review body. In performing its dissemination  
5 functions required by Section 805.5, the agency shall include a  
6 copy of a supplemental report, if any, whenever it furnishes a copy  
7 of the original 805 report.

8 If another peer review body is required to file an 805 report, a  
9 health care service plan is not required to file a separate report  
10 with respect to action attributable to the same medical disciplinary  
11 cause or reason. If the Medical Board of California or a licensing  
12 agency of another state revokes or suspends, without a stay, the  
13 license of a physician and surgeon, a peer review body is not  
14 required to file an 805 report when it takes an action as a result of  
15 the revocation or suspension.

16 (g) The reporting required by this section shall not act as a  
17 waiver of confidentiality of medical records and committee reports.  
18 The information reported or disclosed shall be kept confidential  
19 except as provided in subdivision (c) of Section 800 and Sections  
20 803.1 and 2027, provided that a copy of the report containing the  
21 information required by this section may be disclosed as required  
22 by Section 805.5 with respect to reports received on or after  
23 January 1, 1976.

24 (h) The Medical Board of California, the Osteopathic Medical  
25 Board of California, and the Dental Board of California shall  
26 disclose reports as required by Section 805.5.

27 (i) An 805 report shall be maintained by an agency for  
28 dissemination purposes for a period of three years after receipt.

29 (j) No person shall incur any civil or criminal liability as the  
30 result of making any report required by this section.

31 (k) A willful failure to file an 805 report by any person who is  
32 designated or otherwise required by law to file an 805 report is  
33 punishable by a fine not to exceed one hundred thousand dollars  
34 (\$100,000) per violation. The fine may be imposed in any civil or  
35 administrative action or proceeding brought by or on behalf of any  
36 agency having regulatory jurisdiction over the person regarding  
37 whom the report was or should have been filed. If the person who  
38 is designated or otherwise required to file an 805 report is a  
39 licensed physician and surgeon, the action or proceeding shall be  
40 brought by the Medical Board of California. The fine shall be paid

1 to that agency but not expended until appropriated by the  
2 Legislature. A violation of this subdivision may constitute  
3 unprofessional conduct by the licentiate. A person who is alleged  
4 to have violated this subdivision may assert any defense available  
5 at law. As used in this subdivision, “willful” means a voluntary  
6 and intentional violation of a known legal duty.

7 (l) Except as otherwise provided in subdivision (k), any failure  
8 by the administrator of any peer review body, the chief executive  
9 officer or administrator of any health care facility, or any person  
10 who is designated or otherwise required by law to file an 805  
11 report, shall be punishable by a fine that under no circumstances  
12 shall exceed fifty thousand dollars (\$50,000) per violation. The  
13 fine may be imposed in any civil or administrative action or  
14 proceeding brought by or on behalf of any agency having  
15 regulatory jurisdiction over the person regarding whom the report  
16 was or should have been filed. If the person who is designated or  
17 otherwise required to file an 805 report is a licensed physician and  
18 surgeon, the action or proceeding shall be brought by the Medical  
19 Board of California. The fine shall be paid to that agency but not  
20 expended until appropriated by the Legislature. The amount of the  
21 fine imposed, not exceeding fifty thousand dollars (\$50,000) per  
22 violation, shall be proportional to the severity of the failure to  
23 report and shall differ based upon written findings, including  
24 whether the failure to file caused harm to a patient or created a  
25 risk to patient safety; whether the administrator of any peer review  
26 body, the chief executive officer or administrator of any health  
27 care facility, or any person who is designated or otherwise required  
28 by law to file an 805 report exercised due diligence despite the  
29 failure to file or whether they knew or should have known that an  
30 805 report would not be filed; and whether there has been a prior  
31 failure to file an 805 report. The amount of the fine imposed may  
32 also differ based on whether a health care facility is a small or  
33 rural hospital as defined in Section 124840 of the Health and Safety  
34 Code.

35 (m) A health care service plan registered under Chapter 2.2  
36 (commencing with Section 1340) of Division 2 of the Health and  
37 Safety Code or a disability insurer that negotiates and enters into  
38 a contract with licentiates to provide services at alternative rates  
39 of payment pursuant to Section 10133 of the Insurance Code, when  
40 determining participation with the plan or insurer, shall evaluate,

1 on a case-by-case basis, licentiates who are the subject of an 805  
2 report, and not automatically exclude or deselect these licentiates.

3 ~~SEC. 2.~~

4 *SEC. 4.* Section 821.5 of the Business and Professions Code  
5 is repealed.

6 ~~SEC. 3.~~

7 *SEC. 5.* Section 821.6 of the Business and Professions Code  
8 is repealed.

9 *SEC. 6. Section 1632.5 of the Business and Professions Code*  
10 *is amended to read:*

11 1632.5. (a) Prior to implementation of paragraph (2) of  
12 subdivision (c) of Section 1632, the department's Office of  
13 *Professional Examination-Resources Services* shall review the  
14 Western Regional Examining Board examination to ~~assure~~ *ensure*  
15 compliance with the requirements of Section 139 and to certify  
16 that the examination process meets those standards. If the  
17 department determines that the examination process fails to meet  
18 those standards, paragraph (2) of subdivision (c) of Section 1632  
19 shall not be implemented. The review of the Western Regional  
20 Examining Board examination shall be conducted during or after  
21 the Dental Board of California's occupational analysis scheduled  
22 for the 2004–05 fiscal year, but not later than September 30, 2005.  
23 However, an applicant who successfully completes the Western  
24 Regional Examining Board examination on or after January 1,  
25 2005, shall be deemed to have met the requirements of subdivision  
26 (c) of Section 1632 if the department certifies that the Western  
27 Regional Examining Board examination meets the standards set  
28 forth in this subdivision.

29 (b) The Western Regional Examining Board examination  
30 process shall be regularly reviewed by the department pursuant to  
31 Section 139.

32 (c) The Western Regional Examining Board examination shall  
33 meet the mandates of subdivision (a) of Section 12944 of the  
34 Government Code.

35 (d) As part of its next scheduled review by the Joint Committee  
36 on Boards, Commissions, and Consumer Protection, the Dental  
37 Board of California shall report to that committee and the  
38 department on the pass rates of applicants who sat for the Western  
39 Regional Examining Board examination, compared with the pass  
40 rates of applicants who sat for the state clinical and written

1 examination administered by the Dental Board of California. This  
2 report shall be a component of the evaluation of the examination  
3 process that is based on psychometrically sound principles for  
4 establishing minimum qualifications and levels of competency.

5 *SEC. 7. Section 1634.2 of the Business and Professions Code*  
6 *is amended to read:*

7 1634.2. (a) An advanced education program's compliance  
8 with subdivision (c) of Section 1634.1 shall be regularly reviewed  
9 by the department pursuant to Section 139.

10 (b) An advanced education program described in subdivision  
11 (c) of Section 1634.1 shall meet the requirements of subdivision  
12 (a) of Section 12944 of the Government Code.

13 (c) The clinical residency program completion certification  
14 required by subdivision (c) of Section 1634.1 shall include a list  
15 of core competencies commensurate to those found in the board's  
16 examinations. The board, together with the department's Office  
17 of *Professional Examination Resources Services*, shall ensure the  
18 alignment of the competencies stated in the clinical residency  
19 program completion certification with the board's current  
20 occupational analysis. The board shall implement use of the clinical  
21 residency program completion certification form and use of the  
22 core competency list through the adoption of emergency regulations  
23 by January 1, 2008.

24 (d) As part of its next scheduled review after January 1, 2007,  
25 by the Joint Committee on Boards, Commissions and Consumer  
26 Protection, the board shall report to that committee and to the  
27 department the number of complaints received for those dentists  
28 who have obtained licensure by passing the state clinical  
29 examination and for those dentists who have obtained licensure  
30 through an advanced education program. The report shall also  
31 contain tracking information on these complaints and their  
32 disposition. This report shall be a component of the evaluation of  
33 the examination process that is based on psychometrically sound  
34 principles for establishing minimum qualifications and levels of  
35 competency.

36 *SEC. 8. Section 2493 of the Business and Professions Code is*  
37 *amended to read:*

38 2493. (a) An applicant for a certificate to practice podiatric  
39 medicine shall pass an examination in the subjects required by

1 Section 2483 in order to ensure a minimum of entry-level  
2 competence.

3 (b) The board shall require a passing score on the National Board  
4 of Podiatric Medical Examiners Part III examination that is  
5 consistent with the postgraduate training requirement in Section  
6 2484. The board, as of July 1, 2005, shall require a passing score  
7 one standard error of measurement higher than the national passing  
8 scale score until such time as the National Board of Podiatric  
9 Medical Examiners recommends a higher passing score consistent  
10 with Section 2484. In consultation with the Office of *Professional*  
11 ~~Examination-Resources Services~~ of the Department of Consumer  
12 Affairs, the board shall ensure that the part III examination  
13 adequately evaluates the full scope of practice established by  
14 Section 2472, including amputation and other foot and ankle  
15 surgical procedures, pursuant to Section 139.

16 ~~SEC. 4.~~

17 *SEC. 9.* Section 2530.2 of the Business and Professions Code  
18 is amended to read:

19 2530.2. As used in this chapter, unless the context otherwise  
20 requires:

21 (a) “Board” means the Speech-Language Pathology and  
22 Audiology Board or any successor.

23 (b) “Person” means any individual, partnership, corporation,  
24 limited liability company, or other organization or combination  
25 thereof, except that only individuals can be licensed under this  
26 chapter.

27 (c) A “speech-language pathologist” is a person who practices  
28 speech-language pathology.

29 (d) The practice of speech-language pathology means all of the  
30 following:

31 (1) The application of principles, methods, instrumental  
32 procedures, and noninstrumental procedures for measurement,  
33 testing, screening, evaluation, identification, prediction, and  
34 counseling related to the development and disorders of speech,  
35 voice, language, or swallowing.

36 (2) The application of principles and methods for preventing,  
37 planning, directing, conducting, and supervising programs for  
38 habilitating, rehabilitating, ameliorating, managing, or modifying  
39 disorders of speech, voice, language, or swallowing in individuals  
40 or groups of individuals.

1 (3) Conducting hearing screenings.

2 (4) Performing suctioning in connection with the scope of  
3 practice described in paragraphs (1) and (2), after compliance with  
4 a medical facility's training protocols on suctioning procedures.

5 (e) (1) Instrumental procedures referred to in subdivision (d)  
6 are the use of rigid and flexible endoscopes to observe the  
7 pharyngeal and laryngeal areas of the throat in order to observe,  
8 collect data, and measure the parameters of communication and  
9 swallowing as well as to guide communication and swallowing  
10 assessment and therapy.

11 (2) Nothing in this subdivision shall be construed as a diagnosis.  
12 Any observation of an abnormality shall be referred to a physician  
13 and surgeon.

14 (f) A licensed speech-language pathologist shall not perform a  
15 flexible fiberoptic nasendoscopic procedure unless he or she has  
16 received written verification from an otolaryngologist certified by  
17 the American Board of Otolaryngology that the speech-language  
18 pathologist has performed a minimum of 25 flexible fiberoptic  
19 nasendoscopic procedures and is competent to perform these  
20 procedures. The speech-language pathologist shall have this written  
21 verification on file and readily available for inspection upon request  
22 by the board. A speech-language pathologist shall pass a flexible  
23 fiberoptic nasendoscopic instrument only under the direct  
24 authorization of an otolaryngologist certified by the American  
25 Board of Otolaryngology and the supervision of a physician and  
26 surgeon.

27 (g) A licensed speech-language pathologist shall only perform  
28 flexible endoscopic procedures described in subdivision (e) in a  
29 setting that requires the facility to have protocols for emergency  
30 medical backup procedures, including a physician and surgeon or  
31 other appropriate medical professionals being readily available.

32 (h) "Speech-language pathology aide" means any person  
33 meeting the minimum requirements established by the board, who  
34 works directly under the supervision of a speech-language  
35 pathologist.

36 (i) (1) "Speech-language pathology assistant" means a person  
37 who meets the academic and supervised training requirements set  
38 forth by the board and who is approved by the board to assist in  
39 the provision of speech-language pathology under the direction  
40 and supervision of a speech-language pathologist who shall be

1 responsible for the extent, kind, and quality of the services provided  
2 by the speech-language pathology assistant.

3 (2) The supervising speech-language pathologist employed or  
4 contracted for by a public school may hold a valid and current  
5 license issued by the board, a valid, current, and professional clear  
6 clinical or rehabilitative services credential in language, speech,  
7 and hearing issued by the Commission on Teacher Credentialing,  
8 or other credential authorizing service in language, speech, and  
9 hearing issued by the Commission on Teacher Credentialing that  
10 is not issued on the basis of an emergency permit or waiver of  
11 requirements. For purposes of this paragraph, a “clear” credential  
12 is a credential that is not issued pursuant to a waiver or emergency  
13 permit and is as otherwise defined by the Commission on Teacher  
14 Credentialing. Nothing in this section referring to credentialed  
15 supervising speech-language pathologists expands existing  
16 exemptions from licensing pursuant to Section 2530.5.

17 (j) An “audiologist” is one who practices audiology.

18 (k) “The practice of audiology” means the application of  
19 principles, methods, and procedures of measurement, testing,  
20 appraisal, prediction, consultation, counseling, instruction related  
21 to auditory, vestibular, and related functions and the modification  
22 of communicative disorders involving speech, language, auditory  
23 behavior or other aberrant behavior resulting from auditory  
24 dysfunction; and the planning, directing, conducting, supervising,  
25 or participating in programs of identification of auditory disorders,  
26 hearing conservation, cerumen removal, aural habilitation, and  
27 rehabilitation, including, hearing aid recommendation and  
28 evaluation procedures including, but not limited to, specifying  
29 amplification requirements and evaluation of the results thereof,  
30 auditory training, and speech reading.

31 (l) “Audiology aide” means any person, meeting the minimum  
32 requirements established by the board. An audiology aide may not  
33 perform any function that constitutes the practice of audiology  
34 unless he or she is under the supervision of an audiologist. The  
35 board may by regulation exempt certain functions performed by  
36 an industrial audiology aide from supervision provided that his or  
37 her employer has established a set of procedures or protocols that  
38 the aide shall follow in performing those functions.

39 (m) “Medical board” means the Medical Board of California.



(n) A “hearing screening” performed by a speech-language pathologist means a binary puretone screening at a preset intensity level for the purpose of determining if the screened individuals are in need of further medical or audiological evaluation.

(o) “Cerumen removal” means the nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures that shall occur under physician and surgeon supervision. Cerumen removal, as provided by this section, shall only be performed by a licensed audiologist. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but shall include all of the following:

(1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.

(2) Approval by the supervising physician of the written standardized protocol.

(3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.

(4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

~~SEC. 5.~~

*SEC. 10.* Section 2532.2 of the Business and Professions Code is amended to read:

2532.2. Except as required by Section 2532.25, to be eligible for licensure by the board as a speech-language pathologist or audiologist, the applicant shall possess all of the following qualifications:

(a) Possess at least a master’s degree in speech-language pathology or audiology from an educational institution approved by the board or qualifications deemed equivalent by the board.

(b) Submit transcripts from an educational institution approved by the board evidencing the successful completion of at least 60 semester units of courses related to the normal development,

1 function, and use of speech, hearing, and language; and courses  
2 that provide information about, and training in, the management  
3 of speech, hearing, and language disorders. At least 24 of the  
4 required 60 semester units shall be related to disorders of speech,  
5 voice, or language for speech-language pathology applicants or to  
6 disorders of hearing and the modification of communication  
7 disorders involving speech and language resulting from hearing  
8 disorders for audiology applicants. These 60 units do not include  
9 credit for thesis, dissertation, or clinical practice.

10 (c) Submit evidence of the satisfactory completion of supervised  
11 clinical practice with individuals representative of a wide spectrum  
12 of ages and communication disorders. The board shall establish  
13 by regulation the required number of clock hours, not to exceed  
14 300 clock hours, of supervised clinical practice necessary for the  
15 applicant.

16 The clinical practice shall be under the direction of an  
17 educational institution approved by the board.

18 (d) Submit evidence of no less than 36 weeks of satisfactorily  
19 completed supervised professional full-time experience or 72 weeks  
20 of professional part-time experience obtained under the supervision  
21 of a licensed speech-language pathologist or audiologist or a  
22 speech-language pathologist or audiologist having qualifications  
23 deemed equivalent by the board. This experience shall be evaluated  
24 and approved by the board. The required professional experience  
25 shall follow completion of the requirements listed in subdivisions  
26 (a), (b), and (c). Full time is defined as at least 36 weeks in a  
27 calendar year and a minimum of 30 hours per week. Part time is  
28 defined as a minimum of 72 weeks and a minimum of 15 hours  
29 per week.

30 (e) Pass an examination or examinations approved by the board.  
31 The board shall determine the subject matter and scope of the  
32 examinations and may waive the examination upon evidence that  
33 the applicant has successfully completed an examination approved  
34 by the board. Written examinations may be supplemented by oral  
35 examinations as the board shall determine. An applicant who fails  
36 his or her examination may be reexamined at a subsequent  
37 examination upon payment of the reexamination fee required by  
38 this chapter.

39 A speech-language pathologist or audiologist who holds a license  
40 from another state or territory of the United States or who holds

1 equivalent qualifications as determined by the board and who has  
2 completed no less than one year of full-time continuous  
3 employment as a speech-language pathologist or audiologist within  
4 the past three years is exempt from the supervised professional  
5 experience in subdivision (d).

6 (f) As applied to licensure as an audiologist, this section shall  
7 apply to applicants who graduated from an approved educational  
8 institution on or before December 31, 2007.

9 ~~SEC. 6.~~

10 *SEC. 11.* Section 2532.25 is added to the Business and  
11 Professions Code, to read:

12 2532.25. (a) An applicant seeking licensure as an audiologist  
13 shall possess a doctorate in audiology earned from an educational  
14 institution approved by the board. The board may, in its discretion,  
15 accept qualifications it deems to be equivalent to a doctoral degree  
16 in audiology. The board shall not, however, accept as equivalent  
17 qualifications graduation from a master's program that the applicant  
18 was enrolled in on or after January 1, 2008.

19 (b) In addition to meeting the qualifications specified in  
20 subdivision (a), an applicant seeking licensure as an audiologist  
21 shall do all of the following:

22 (1) Submit evidence of the satisfactory completion of supervised  
23 clinical practice with individuals representative of a wide spectrum  
24 of ages and audiological disorders. The board shall establish by  
25 regulation the required number of clock hours of supervised clinical  
26 practice necessary for the applicant. The clinical practice shall be  
27 under the direction of an educational institution approved by the  
28 board.

29 (2) Submit evidence of no less than 12 months of satisfactorily  
30 completed supervised professional full-time experience or its  
31 part-time equivalent obtained under the supervision of a licensed  
32 audiologist or an audiologist having qualifications deemed  
33 equivalent by the board. This experience shall be completed under  
34 the direction of a board-approved audiology doctoral program.  
35 The required professional experience shall follow completion of  
36 the didactic and clinical rotation requirements of the audiology  
37 doctoral program.

38 (3) Pass an examination or examinations approved by the board.  
39 The board shall determine the subject matter and scope of the  
40 examination or examinations and may waive an examination upon

1 evidence that the applicant has successfully completed an  
2 examination approved by the board. Written examinations may be  
3 supplemented by oral examinations as the board shall determine.  
4 An applicant who fails an examination may be reexamined at a  
5 subsequent examination upon payment of the reexamination fee  
6 required by this chapter.

7 (c) This section shall apply to applicants who graduate from an  
8 approved educational institution on and after January 1, 2008.

9 ~~SEC. 7.~~

10 *SEC. 12.* Section 2532.7 of the Business and Professions Code  
11 is amended to read:

12 2532.7. (a) Upon approval of an application filed pursuant to  
13 Section 2532.1, and upon payment of the fee prescribed by Section  
14 2534.2, the board may issue a required professional experience  
15 (RPE) temporary license for a period to be determined by the board  
16 to an applicant who is obtaining the required professional  
17 experience specified in subdivision (d) of Section 2532.2 or  
18 paragraph (2) of subdivision (b) of Section 2532.25.

19 (b) Effective July 1, 2003, no person shall obtain the required  
20 professional experience for licensure in either an exempt or  
21 nonexempt setting, as defined in Section 2530.5, unless he or she  
22 is licensed in accordance with this section or is completing the  
23 final clinical externship of a board-approved audiology doctoral  
24 training program in accordance with paragraph (2) of subdivision  
25 (b) of Section 2532.25 in another state.

26 (c) A person who obtains an RPE temporary license outside the  
27 State of California shall not be required to hold a temporary license  
28 issued pursuant to subdivision (a) if the person is completing the  
29 final clinical externship of an audiology doctoral training program  
30 in accordance with paragraph (2) of subdivision (b) of Section  
31 2532.25.

32 (d) Any experience obtained in violation of this act shall not be  
33 approved by the board.

34 (e) An RPE temporary license shall terminate upon notice  
35 thereof by certified mail, return receipt requested, if it is issued by  
36 mistake or if the application for permanent licensure is denied.

37 (f) Upon written application, the board may reissue an RPE  
38 temporary license for a period to be determined by the board to  
39 an applicant who is obtaining the required professional experience

1 specified in subdivision (d) of Section 2532.2 or paragraph (2) of  
2 subdivision (b) of Section 2532.25.

3 ~~SEC. 8.~~

4 *SEC. 13.* Section 2570.2 of the Business and Professions Code  
5 is amended to read:

6 2570.2. As used in this chapter, unless the context requires  
7 otherwise:

8 (a) “Appropriate supervision of an aide” means that the  
9 responsible occupational therapist or occupational therapy assistant  
10 shall provide direct in-sight supervision when the aide is providing  
11 delegated client-related tasks and shall be readily available at all  
12 times to provide advice or instruction to the aide. The occupational  
13 therapist or occupational therapy assistant is responsible for  
14 documenting the client’s record concerning the delegated  
15 client-related tasks performed by the aide.

16 (b) “Aide” means an individual who provides supportive services  
17 to an occupational therapist and who is trained by an occupational  
18 therapist to perform, under appropriate supervision, delegated,  
19 selected client and nonclient-related tasks for which the aide has  
20 demonstrated competency. An occupational therapist licensed  
21 pursuant to this chapter may utilize the services of one aide  
22 engaged in patient-related tasks to assist the occupational therapist  
23 in his or her practice of occupational therapy.

24 (c) “Association” means the Occupational Therapy Association  
25 of California or a similarly constituted organization representing  
26 occupational therapists in this state.

27 (d) “Board” means the California Board of Occupational  
28 Therapy.

29 (e) “Examination” means an entry level certification examination  
30 for occupational therapists and occupational therapy assistants  
31 administered by the National Board for Certification in  
32 Occupational Therapy or by another nationally recognized  
33 credentialing body.

34 (f) “Good standing” means that the person has a current, valid  
35 license to practice occupational therapy or assist in the practice of  
36 occupational therapy and has not been disciplined by the  
37 recognized professional certifying or standard-setting body within  
38 five years prior to application or renewal of the person’s license.

39 (g) “Occupational therapist” means an individual who meets  
40 the minimum education requirements specified in Section 2570.6

1 and is licensed pursuant to the provisions of this chapter and whose  
2 license is in good standing as determined by the board to practice  
3 occupational therapy under this chapter. Only the occupational  
4 therapist is responsible for the occupational therapy assessment  
5 of a client, and the development of an occupational therapy plan  
6 of treatment.

7 (h) “Occupational therapy assistant” means an individual who  
8 is licensed pursuant to the provisions of this chapter, who is in  
9 good standing as determined by the board, and based thereon, who  
10 is qualified to assist in the practice of occupational therapy under  
11 this chapter, and who works under the appropriate supervision of  
12 a licensed occupational therapist.

13 (i) “Occupational therapy services” means the services of an  
14 occupational therapist or the services of an occupational therapy  
15 assistant under the appropriate supervision of an occupational  
16 therapist.

17 (j) “Person” means an individual, partnership, unincorporated  
18 organization, or corporation.

19 (k) “Practice of occupational therapy” means the therapeutic  
20 use of purposeful and meaningful goal-directed activities  
21 (occupations) which engage the individual’s body and mind in  
22 meaningful, organized, and self-directed actions that maximize  
23 independence, prevent or minimize disability, and maintain health.  
24 Occupational therapy services encompass occupational therapy  
25 assessment, treatment, education of, and consultation with,  
26 individuals who have been referred for occupational therapy  
27 services subsequent to diagnosis of disease or disorder (or who  
28 are receiving occupational therapy services as part of an  
29 Individualized Education Plan (IEP) pursuant to the federal  
30 Individuals with Disabilities Education Act (IDEA)). Occupational  
31 therapy assessment identifies performance abilities and limitations  
32 that are necessary for self-maintenance, learning, work, and other  
33 similar meaningful activities. Occupational therapy treatment is  
34 focused on developing, improving, or restoring functional daily  
35 living skills, compensating for and preventing dysfunction, or  
36 minimizing disability. Occupational therapy techniques that are  
37 used for treatment involve teaching activities of daily living  
38 (excluding speech-language skills); designing or fabricating  
39 selective temporary orthotic devices, and applying or training in  
40 the use of assistive technology or orthotic and prosthetic devices

(excluding gait training). Occupational therapy consultation provides expert advice to enhance function and quality of life. Consultation or treatment may involve modification of tasks or environments to allow an individual to achieve maximum independence. Services are provided individually, in groups, or through social groups.

(l) “Hand therapy” is the art and science of rehabilitation of the hand, wrist, and forearm requiring comprehensive knowledge of the upper extremity and specialized skills in assessment and treatment to prevent dysfunction, restore function, or reverse the advancement of pathology. This definition is not intended to prevent an occupational therapist practicing hand therapy from providing other occupational therapy services authorized under this act in conjunction with hand therapy.

(m) “Physical agent modalities” means techniques that produce a response in soft tissue through the use of light, water, temperature, sound, or electricity. These techniques are used as adjunctive methods in conjunction with, or in immediate preparation for, occupational therapy services.

~~SEC. 9.~~

*SEC. 14.* Section 2570.3 of the Business and Professions Code is amended to read:

2570.3. (a) No person shall practice occupational therapy or hold himself or herself out as an occupational therapist or as being able to practice occupational therapy, or to render occupational therapy services in this state unless he or she is licensed as an occupational therapist under the provisions of this chapter. No person shall hold himself or herself out as an occupational therapy assistant or work as an occupational therapy assistant under the supervision of an occupational therapist unless he or she is licensed as an occupational therapy assistant under the provisions of this chapter.

(b) Only an individual may be licensed under this chapter.

(c) Nothing in this chapter shall be construed as authorizing an occupational therapist to practice physical therapy, as defined in Section 2620; speech-language pathology or audiology, as defined in Section 2530.2; nursing, as defined in Section 2725; psychology, as defined in Section 2903; or spinal manipulation or other forms of healing, except as authorized by this section.

(d) An occupational therapist may provide advanced practices if the therapist has the knowledge, skill, and ability to do so and has demonstrated to the satisfaction of the board that he or she has met educational training and competency requirements. These advanced practices include the following:

- (1) Hand therapy.
- (2) The use of physical agent modalities.
- (3) Swallowing assessment, evaluation, or intervention.

(e) An occupational therapist providing hand therapy services shall demonstrate to the satisfaction of the board that he or she has completed post professional education and training in all of the following areas:

- (1) Anatomy of the upper extremity and how it is altered by pathology.
- (2) Histology as it relates to tissue healing and the effects of immobilization and mobilization on connective tissue.
- (3) Muscle, sensory, vascular, and connective tissue physiology.
- (4) Kinesiology of the upper extremity, such as biomechanical principles of pulleys, intrinsic and extrinsic muscle function, internal forces of muscles, and the effects of external forces.
- (5) The effects of temperature and electrical currents on nerve and connective tissue.

(6) Surgical procedures of the upper extremity and their postoperative course.

(f) An occupational therapist using physical agent modalities shall demonstrate to the satisfaction of the board that he or she has completed post professional education and training in all of the following areas:

- (1) Anatomy and physiology of muscle, sensory, vascular, and connective tissue in response to the application of physical agent modalities.
- (2) Principles of chemistry and physics related to the selected modality.
- (3) Physiological, neurophysiological, and electrophysiological changes that occur as a result of the application of a modality.
- (4) Guidelines for the preparation of the patient, including education about the process and possible outcomes of treatment.
- (5) Safety rules and precautions related to the selected modality.
- (6) Methods for documenting immediate and long-term effects of treatment.



1 (7) Characteristics of the equipment, including safe operation,  
2 adjustment, indications of malfunction, and care.

3 (g) An occupational therapist in the process of achieving the  
4 education, training, and competency requirements established by  
5 the board for providing hand therapy or using physical agent  
6 modalities may practice these techniques under the supervision of  
7 an occupational therapist who has already met the requirements  
8 established by the board, a physical therapist, or a physician and  
9 surgeon.

10 (h) The board shall develop and adopt regulations regarding the  
11 educational training and competency requirements for advanced  
12 practices in collaboration with the Speech-Language Pathology  
13 and Audiology Board, the Board of Registered Nursing, and the  
14 Physical Therapy Board of California.

15 (i) Nothing in this chapter shall be construed as authorizing an  
16 occupational therapist to seek reimbursement for services other  
17 than for the practice of occupational therapy as defined in this  
18 chapter.

19 (j) “Supervision of an occupational therapy assistant” means  
20 that the responsible occupational therapist shall at all times be  
21 responsible for all occupational therapy services provided to the  
22 client. The occupational therapist who is responsible for appropriate  
23 supervision shall formulate and document in each client’s record,  
24 with his or her signature, the goals and plan for that client, and  
25 shall make sure that the occupational therapy assistant assigned  
26 to that client functions under appropriate supervision. As part of  
27 the responsible occupational therapist’s appropriate supervision,  
28 he or she shall conduct at least weekly review and inspection of  
29 all aspects of occupational therapy services by the occupational  
30 therapy assistant.

31 (1) The supervising occupational therapist has the continuing  
32 responsibility to follow the progress of each patient, provide direct  
33 care to the patient, and to assure that the occupational therapy  
34 assistant does not function autonomously.

35 (2) An occupational therapist shall not supervise more  
36 occupational therapy assistants, at any one time, than can be  
37 appropriately supervised in the opinion of the board. Two  
38 occupational therapy assistants shall be the maximum number of  
39 occupational therapy assistants supervised by an occupational  
40 therapist at any one time, but the board may permit the supervision

1 of a greater number by an occupational therapist if, in the opinion  
2 of the board, there would be adequate supervision and the public's  
3 health and safety would be served. In no case shall the total number  
4 of occupational therapy assistants exceed twice the number of  
5 occupational therapists regularly employed by a facility at any one  
6 time.

7 (k) The amendments to subdivisions (d), (e), (f), and (g) relating  
8 to advanced practices, that are made by the act adding this  
9 subdivision, shall become operative no later than January 1, 2004,  
10 or on the date the board adopts regulations pursuant to subdivision  
11 (h), whichever first occurs.

12 ~~SEC. 10.~~

13 *SEC. 15.* Section 2570.4 of the Business and Professions Code  
14 is amended to read:

15 2570.4. Nothing in this chapter shall be construed as preventing  
16 or restricting the practice, services, or activities of any of the  
17 following persons:

18 (a) Any person licensed or otherwise recognized in this state  
19 by any other law or regulation when that person is engaged in the  
20 profession or occupation for which he or she is licensed or  
21 otherwise recognized.

22 (b) Any person pursuing a supervised course of study leading  
23 to a degree or certificate in occupational therapy at an accredited  
24 educational program, if the person is designated by a title that  
25 clearly indicates his or her status as a student or trainee.

26 (c) Any person fulfilling the supervised fieldwork experience  
27 requirements of subdivision (c) of Section 2570.6, if the experience  
28 constitutes a part of the experience necessary to meet the  
29 requirement of that provision.

30 (d) Any person performing occupational therapy services in the  
31 state if all of the following apply:

32 (1) An application for licensure as an occupational therapist or  
33 an occupational therapy assistant has been filed with the board  
34 pursuant to Section 2570.6 and an application for a license in this  
35 state has not been previously denied.

36 (2) The person possesses a current, active, and nonrestricted  
37 license to practice occupational therapy under the laws of another  
38 state that the board determines has licensure requirements at least  
39 as stringent as the requirements of this chapter.

1 (3) Occupational therapy services are performed in association  
2 with an occupational therapist licensed under this chapter, and for  
3 no more than 60 days from the date on which the application for  
4 licensure was filed with the board.

5 (e) Any person employed as an aide subject to the supervision  
6 requirements of this section.

7 ~~SEC. 11.~~

8 *SEC. 16.* Section 2570.5 of the Business and Professions Code  
9 is amended to read:

10 2570.5. (a) A limited permit may be granted to any person  
11 who has completed the education and experience requirements of  
12 this chapter.

13 (b) A person who meets the qualifications to be admitted to the  
14 examination for licensure under this chapter and is waiting to take  
15 the first available examination or awaiting the announcement of  
16 the results of the examination, according to the application  
17 requirements for a limited permit, may practice as an occupational  
18 therapist or as an occupational therapy assistant under the direction  
19 and appropriate supervision of an occupational therapist duly  
20 licensed under this chapter. If that person fails to qualify for or  
21 pass the first announced examination, all privileges under this  
22 section shall automatically cease upon due notice to the applicant  
23 of that failure and may not be renewed.

24 (c) A limited permit shall be subject to other requirements set  
25 forth in rules adopted by the board.

26 ~~SEC. 12.~~

27 *SEC. 17.* Section 2570.6 of the Business and Professions Code  
28 is amended to read:

29 2570.6. An applicant applying for a license as an occupational  
30 therapist or as an occupational therapy assistant shall file with the  
31 board a written application provided by the board, showing to the  
32 satisfaction of the board that he or she meets all of the following  
33 requirements:

34 (a) That the applicant is in good standing and has not committed  
35 acts or crimes constituting grounds for denial of a license under  
36 Section 480.

37 (b) (1) That the applicant has successfully completed the  
38 academic requirements of an educational program for occupational  
39 therapists or occupational therapy assistants that is approved by  
40 the board and accredited by the American Occupational Therapy

1 Association's Accreditation Council for Occupational Therapy  
2 Education (ACOTE).  
3 (2) The curriculum of an education program for occupational  
4 therapists shall contain the content specifically required in the  
5 ACOTE accreditation standards, including all of the following  
6 subjects:  
7 (A) Biological, behavioral, and health sciences.  
8 (B) Structure and function of the human body, including  
9 anatomy, kinesiology, physiology, and the neurosciences.  
10 (C) Human development throughout the life span.  
11 (D) Human behavior in the context of sociocultural systems.  
12 (E) Etiology, clinical course, management, and prognosis of  
13 disease processes and traumatic injuries, and the effects of those  
14 conditions on human functioning.  
15 (F) Occupational therapy theory, practice, and process that shall  
16 include the following:  
17 (i) Human performance, that shall include occupational  
18 performance throughout the life cycle, human interaction, roles,  
19 values, and the influences of the nonhuman environment.  
20 (ii) Activity processes that shall include the following:  
21 (I) Theories underlying the use of purposeful activity and the  
22 meaning and dynamics of activity.  
23 (II) Performance of selected life tasks and activities.  
24 (III) Analysis, adaptation, and application of purposeful activity  
25 as therapeutic intervention.  
26 (IV) Use of self, dyadic, and group interaction.  
27 (iii) Theoretical approaches, including those related to  
28 purposeful activity, human performance, and adaptation.  
29 (iv) Application of occupational therapy theory to practice, that  
30 shall include the following:  
31 (I) Assessment and interpretation, observation, interviews,  
32 history, and standardized and nonstandardized tests.  
33 (II) Directing, planning, and implementation, that shall include:  
34 therapeutic intervention related to daily living skills and  
35 occupational components; therapeutic adaptation, including  
36 methods of accomplishing daily life tasks, environmental  
37 adjustments, orthotics, and assistive devices and equipment; health  
38 maintenance, including energy conservation, joint protection, body  
39 mechanics, and positioning; and prevention programs to foster  
40 age-appropriate recommendations to maximize treatment gains.

1 (III) Program termination including reevaluation, determination  
2 of discharge, summary of occupational therapy outcome, and  
3 appropriate recommendations to maximize treatment gains.

4 (IV) Documentation.

5 (v) Development and implementation of quality assurance.

6 (vi) Management of occupational therapy service, that shall  
7 include:

8 (I) Planning services for client groups.

9 (II) Personnel management, including occupational therapy  
10 assistants, aides, volunteers, and level I students.

11 (III) Departmental operations, including budgeting, scheduling,  
12 recordkeeping, safety, and maintenance of supplies and equipment.

13 (3) The curriculum of an education program for occupational  
14 therapy assistants shall contain the content specifically required  
15 in the ACOTE accreditation standards, including all of the  
16 following subjects:

17 (A) Biological, behavioral, and health sciences.

18 (B) Structure and function of the normal human body.

19 (C) Human development.

20 (D) Conditions commonly referred to occupational therapists.

21 (E) Occupational therapy principles and skills, that shall include  
22 the following:

23 (i) Human performance, including life tasks and roles as related  
24 to the developmental process from birth to death.

25 (ii) Activity processes and skills, that shall include the following:

26 (I) Performance of selected life tasks and activities.

27 (II) Analysis and adaptation of activities.

28 (III) Instruction of individuals and groups in selected life tasks  
29 and activities.

30 (iii) Concepts related to occupational therapy practice, that shall  
31 include the following:

32 (I) The importance of human occupation as a health determinant.

33 (II) The use of self, interpersonal, and communication skills.

34 (iv) Use of occupational therapy concepts and skills, that shall  
35 include the following:

36 (I) Data collection, that shall include structured observation and  
37 interviews, history, and structured tests.

38 (II) Participation in planning and implementation, that shall  
39 include: therapeutic intervention related to daily living skills and  
40 occupational components; therapeutic adaptation, including

1 methods of accomplishing daily life tasks, environmental  
2 adjustments, orthotics, and assistive devices and equipment; health  
3 maintenance, including mental health techniques, energy  
4 conservation, joint protection, body mechanics, and positioning;  
5 and prevention programs to foster age-appropriate balance of  
6 self-care and work.

7 (III) Program termination, including assisting in reevaluation,  
8 summary of occupational therapy outcome, and appropriate  
9 recommendations to maximize treatment gains.

10 (IV) Documentation.

11 (c) That the applicant has successfully completed a period of  
12 supervised fieldwork experience approved by the board and  
13 arranged by a recognized educational institution where he or she  
14 met the academic requirements of subdivision (b) or arranged by  
15 a nationally recognized professional association. The fieldwork  
16 requirements shall be as follows:

17 (1) For an occupational therapist, a minimum of 960 hours of  
18 supervised fieldwork experience shall be completed within 24  
19 months of the completion of didactic coursework.

20 (2) For an occupational therapy assistant, a minimum of 640  
21 hours of supervised fieldwork experience shall be completed within  
22 20 months of the completion of didactic coursework.

23 (d) That the applicant has passed an examination as provided  
24 in Section 2570.7.

25 (e) That the applicant, at the time of application, is a person  
26 over 18 years of age, is not addicted to alcohol or any controlled  
27 substance, and has not committed acts or crimes constituting  
28 grounds for denial of licensure under Section 480.

29 ~~SEC. 13.~~

30 *SEC. 18.* Section 2570.7 of the Business and Professions Code  
31 is amended to read:

32 2570.7. (a) An applicant who has satisfied the requirements  
33 of Section 2570.6 may apply for examination for licensure in a  
34 manner prescribed by the board. Subject to the provisions of this  
35 chapter, an applicant who fails an examination may apply for  
36 reexamination.

37 (b) Each applicant for licensure shall successfully complete the  
38 entry level certification examination for occupational therapists  
39 or occupational therapy assistants, such as the examination  
40 administered by the National Board for Certification in

1 Occupational Therapy or by another nationally recognized  
2 credentialing body. The examination shall be appropriately  
3 validated. Each applicant shall be examined by written examination  
4 to test his or her knowledge of the basic and clinical sciences  
5 relating to occupational therapy, occupational therapy techniques  
6 and methods, and any other subjects that the board may require to  
7 determine the applicant's fitness to practice under this chapter.

8 (c) Applicants for licensure shall be examined at a time and  
9 place and under that supervision as the board may require.

10 ~~SEC. 14.~~

11 *SEC. 19.* Section 2570.9 of the Business and Professions Code  
12 is amended to read:

13 2570.9. The board shall issue a license to any applicant who  
14 meets the requirements of this chapter, including the payment of  
15 the prescribed licensure or renewal fee, and who meets any other  
16 requirement in accordance with applicable state law.

17 ~~SEC. 15.~~

18 *SEC. 20.* Section 2570.10 of the Business and Professions Code  
19 is amended to read:

20 2570.10. (a) Any license issued under this chapter shall be  
21 subject to renewal as prescribed by the board and shall expire  
22 unless renewed in that manner. The board may provide for the late  
23 renewal of a license as provided for in Section 163.5.

24 (b) In addition to any other qualifications and requirements for  
25 licensure renewal, the board may by rule establish and require the  
26 satisfactory completion of continuing competency requirements  
27 as a condition of renewal of a license.

28 ~~SEC. 16.~~

29 *SEC. 21.* Section 2570.13 of the Business and Professions Code  
30 is amended to read:

31 2570.13. (a) Consistent with this section, subdivisions (a), (b),  
32 and (c) of Section 2570.2, and accepted professional standards,  
33 the board shall adopt rules necessary to assure appropriate  
34 supervision of occupational therapy assistants and aides.

35 (b) An occupational therapy assistant may practice only under  
36 the supervision of an occupational therapist who is authorized to  
37 practice occupational therapy in this state.

38 (c) An aide providing delegated, client-related supportive  
39 services shall require continuous and direct supervision by an  
40 occupational therapist.

1     ~~SEC. 17.~~

2     *SEC. 22.* Section 2570.16 of the Business and Professions Code  
3 is amended to read:

4     2570.16. Initial license and renewal fees shall be established  
5 by the board in an amount that does not exceed a ceiling of one  
6 hundred fifty dollars (\$150) per year. The board shall establish the  
7 following additional fees:

8     (a) An application fee not to exceed fifty dollars (\$50).

9     (b) A late renewal fee as provided for in Section 2570.10.

10    (c) A limited permit fee.

11    (d) A fee to collect fingerprints for criminal history record  
12 checks.

13     ~~SEC. 18.~~

14     *SEC. 23.* Section 2570.17 is added to the Business and  
15 Professions Code, to read:

16     2570.17. (a) The board shall issue, upon application and  
17 payment of a twenty-five dollar (\$25) fee, a retired license to an  
18 occupational therapist or an occupational therapy assistant who  
19 holds a license that is current and active, or capable of being  
20 renewed pursuant to Section 2570.10, and whose license is not  
21 suspended, revoked, or otherwise restricted by the board or subject  
22 to discipline under this chapter.

23     (b) The holder of a retired license issued pursuant to this section  
24 shall not engage in any activity for which an active license is  
25 required. An occupational therapist holding a retired license shall  
26 be permitted to use the title “occupational therapist, retired” or  
27 “retired occupational therapist.” An occupational therapy assistant  
28 holding a retired license shall be permitted to use the title  
29 “occupational therapy assistant, retired” or “retired occupational  
30 therapy assistant.” The designation of retired shall not be  
31 abbreviated in any way.

32     (c) The holder of a retired license shall not be required to renew  
33 that license.

34     (d) In order for the holder of a retired license issued pursuant  
35 to this section to restore his or her license, he or she shall comply  
36 with Section 2570.14.

37     ~~SEC. 19.~~

38     *SEC. 24.* Section 2570.18 of the Business and Professions Code  
39 is amended to read:



1     2570.18. (a) A person shall not represent to the public by title,  
2 by description of services, methods, or procedures, or otherwise,  
3 that the person is authorized to practice occupational therapy in  
4 this state, unless authorized to practice occupational therapy under  
5 this chapter.

6     (b) Unless licensed to practice as an occupational therapist under  
7 this chapter, a person may not use the professional abbreviations  
8 “O.T.,” “O.T.R.,” or “O.T.R./L.,” or “Occupational Therapist,” or  
9 “Occupational Therapist Registered,” or any other words, letters,  
10 or symbols with the intent to represent that the person practices or  
11 is authorized to practice occupational therapy.

12     (c) Unless licensed to assist in the practice of occupational  
13 therapy as an occupational therapy assistant under this chapter, a  
14 person may not use the professional abbreviations “O.T.A.,”  
15 “O.T.A./L.,” “C.O.T.A.,” “C.O.T.A./L.,” or “Occupational Therapy  
16 Assistant,” “Licensed Occupational Therapy Assistant,” or any  
17 other words, letters, or symbols, with the intent to represent that  
18 the person assists in, or is authorized to assist in, the practice of  
19 occupational therapy as an occupational therapy assistant.

20     (d) The unauthorized practice or representation as an  
21 occupational therapist or as an occupational therapy assistant  
22 constitutes an unfair business practice under Section 17200 and  
23 false and misleading advertising under Section 17500.

24     ~~SEC. 20.~~

25     SEC. 25. Section 2570.20 of the Business and Professions Code  
26 is amended to read:

27     2570.20. (a) The board shall administer, coordinate, and  
28 enforce the provisions of this chapter, evaluate the qualifications,  
29 and approve the examinations for licensure under this chapter.

30     (b) The board shall adopt rules in accordance with the  
31 Administrative Procedure Act relating to professional conduct to  
32 carry out the purpose of this chapter, including, but not limited to,  
33 rules relating to professional licensure and to the establishment of  
34 ethical standards of practice for persons holding a license to  
35 practice occupational therapy or to assist in the practice of  
36 occupational therapy in this state.

37     (c) Proceedings under this chapter shall be conducted in  
38 accordance with Chapter 3.5 (commencing with Section 11340)  
39 of Part 1 of Division 3 of Title 2 of the Government Code.

1     ~~SEC. 21.~~

2     *SEC. 26.* Section 2570.26 of the Business and Professions Code  
3 is amended to read:

4     2570.26. (a) The board may, after a hearing, deny, suspend,  
5 revoke, or place on probation a license, inactive license, or limited  
6 permit.

7     (b) As used in this chapter, “license” includes a license, limited  
8 permit, or any other authorization to engage in practice regulated  
9 by this chapter.

10    (c) The proceedings under this section shall be conducted in  
11 accordance with Chapter 5 (commencing with Section 11500) of  
12 Part 1 of Division 3 of Title 2 of the Government Code, and the  
13 board shall have all the powers granted therein.

14    ~~SEC. 22.~~

15    *SEC. 27.* Section 2570.28 of the Business and Professions Code  
16 is amended to read:

17    2570.28. The board may deny or discipline a licensee for any  
18 of the following:

19    (a) Unprofessional conduct, including, but not limited to, the  
20 following:

21    (1) Incompetence or gross negligence in carrying out usual  
22 occupational therapy functions.

23    (2) Repeated similar negligent acts in carrying out usual  
24 occupational therapy functions.

25    (3) A conviction of practicing medicine without a license in  
26 violation of Chapter 5 (commencing with Section 2000), in which  
27 event a certified copy of the record of conviction shall be  
28 conclusive evidence thereof.

29    (4) The use of advertising relating to occupational therapy which  
30 violates Section 17500.

31    (5) Denial of licensure, revocation, suspension, restriction, or  
32 any other disciplinary action against a licensee by another state or  
33 territory of the United States, by any other government agency, or  
34 by another California health care professional licensing board. A  
35 certified copy of the decision, order, or judgment shall be  
36 conclusive evidence thereof.

37    (b) Procuring a license by fraud, misrepresentation, or mistake.

38    (c) Violating or attempting to violate, directly or indirectly, or  
39 assisting in or abetting the violation of, or conspiring to violate,

1 any provision or term of this chapter or any regulation adopted  
2 pursuant to this chapter.

3 (d) Making or giving any false statement or information in  
4 connection with the application for issuance or renewal of a license.

5 (e) Conviction of a crime or of any offense substantially related  
6 to the qualifications, functions, or duties of a licensee, in which  
7 event the record of the conviction shall be conclusive evidence  
8 thereof.

9 (f) Impersonating an applicant or acting as proxy for an applicant  
10 in any examination required under this chapter for the issuance of  
11 a license.

12 (g) Impersonating a licensed practitioner, or permitting or  
13 allowing another unlicensed person to use a license.

14 (h) Committing any fraudulent, dishonest, or corrupt act that is  
15 substantially related to the qualifications, functions, or duties of a  
16 licensee.

17 (i) Committing any act punishable as a sexually related crime,  
18 if that act is substantially related to the qualifications, functions,  
19 or duties of a licensee, in which event a certified copy of the record  
20 of conviction shall be conclusive evidence thereof.

21 (j) Using excessive force upon or mistreating or abusing any  
22 patient. For the purposes of this subdivision, “excessive force”  
23 means force clearly in excess of that which would normally be  
24 applied in similar clinical circumstances.

25 (k) Falsifying or making grossly incorrect, grossly inconsistent,  
26 or unintelligible entries in a patient or hospital record or any other  
27 record.

28 (l) Changing the prescription of a physician and surgeon or  
29 falsifying verbal or written orders for treatment or a diagnostic  
30 regime received, whether or not that action resulted in actual patient  
31 harm.

32 (m) Failing to maintain confidentiality of patient medical  
33 information, except as disclosure is otherwise permitted or required  
34 by law.

35 (n) Delegating to an unlicensed employee or person a service  
36 that requires the knowledge, skills, abilities, or judgment of a  
37 licensee.

38 (o) Committing any act that would be grounds for denial of a  
39 license under Section 480.

(p) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of infectious diseases from licensee to patient, from patient to patient, or from patient to licensee.

(1) In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 63001) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary to encourage appropriate consistency in the implementation of this subdivision, the board shall consult with the Medical Board of California, the Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians.

(2) The board shall seek to ensure that licensees are informed of their responsibility to minimize the risk of transmission of infectious diseases from health care provider to patient, from patient to patient, and from patient to health care provider, and are informed of the most recent scientifically recognized safeguards for minimizing the risks of transmission.

~~SEC. 23.~~

*SEC. 28.* Section 2571 of the Business and Professions Code is amended to read:

2571. (a) An occupational therapist licensed pursuant to this chapter and approved by the board in the use of physical agent modalities may apply topical medications prescribed by the patient's physician and surgeon, certified nurse-midwife pursuant to Section 2746.51, nurse practitioner pursuant to Section 2836.1, or physician assistant pursuant to Section 3502.1, if the licensee complies with regulations adopted by the board pursuant to this section.

(b) The board shall adopt regulations implementing this section, after meeting and conferring with the Medical Board of California, the California State Board of Pharmacy, and the Physical Therapy Board of California, specifying those topical medications applicable to the practice of occupational therapy and protocols for their use.

1 (c) Nothing in this section shall be construed to authorize an  
2 occupational therapist to prescribe medications.

3 ~~SEC. 24.~~

4 *SEC. 29.* Section 2872.2 of the Business and Professions Code  
5 is amended to read:

6 2872.2. An applicant for license by examination shall submit  
7 a written application in the form prescribed by the board.

8 Provided that the application for licensure by examination is  
9 received by the board no later than four months after completion  
10 of a board accredited nursing program and approval of the  
11 application, the board may issue an interim permit authorizing the  
12 applicant to practice vocational nursing pending the results of the  
13 first licensing examination, or for a period of nine months,  
14 whichever occurs first.

15 If the applicant passes the examination, the interim permit shall  
16 remain in effect until an initial license is issued by the board or  
17 for a maximum period of six months after passing the examination,  
18 whichever occurs first. If the applicant fails the examination, the  
19 interim permit shall terminate upon notice by certified mail, return  
20 receipt requested, or if the applicant fails to receive the notice,  
21 upon the date specified in the interim permit, whichever occurs  
22 first.

23 A permittee shall function under the supervision of a licensed  
24 vocational nurse or a registered nurse, who shall be present and  
25 available on the premises during the time the permittee is rendering  
26 professional services. The supervising licensed vocational nurse  
27 or registered nurse may delegate to the permittee any function  
28 taught in the permittee's basic nursing program.

29 An interim permittee shall not use any title or designation other  
30 than vocational nurse interim permittee or "V.N.I.P."

31 ~~SEC. 25.~~

32 *SEC. 30.* Section 3357 of the Business and Professions Code  
33 is amended to read:

34 3357. (a) An applicant who has fulfilled the requirements of  
35 Section 3352, and has made application therefor, and who proves  
36 to the satisfaction of the bureau that he or she will be supervised  
37 and trained by a hearing aid dispenser who is approved by the  
38 bureau may have a temporary license issued to him or her. The  
39 temporary license shall entitle the temporary licensee to fit or sell  
40 hearing aids as set forth in regulations of the bureau. The

1 supervising dispenser shall be responsible for any acts or omissions  
2 committed by a temporary licensee under his or her supervision  
3 that may constitute a violation of this chapter.

4 (b) The bureau shall adopt regulations setting forth criteria for  
5 its refusal to approve a hearing aid dispenser to supervise a  
6 temporary licensee, including procedures to appeal that decision.

7 (c) A temporary license issued pursuant to this section is  
8 effective and valid for six months from date of issue. The bureau  
9 may renew the temporary license for an additional period of six  
10 months. Except as provided in subdivision (d), the bureau shall  
11 not issue more than two renewals of a temporary license to any  
12 applicant. Notwithstanding subdivision (d), if a temporary licensee  
13 who is entitled to renew a temporary license does not renew the  
14 temporary license and applies for a new temporary license at a  
15 later time, the new temporary license shall only be issued and  
16 renewed subject to the limitations set forth in this subdivision.

17 (d) A new temporary license may be issued pursuant to this  
18 section if a temporary license issued pursuant to subdivision (c)  
19 has lapsed for a minimum of three years from the expiration or  
20 cancellation date of the previous temporary license. The bureau  
21 may issue only one new temporary license under this subdivision.

22 ~~SEC. 26.~~

23 *SEC. 31.* Section 3362 of the Business and Professions Code  
24 is amended to read:

25 3362. (a) Before engaging in the practice of fitting or selling  
26 hearing aids, each licensee shall notify the bureau in writing of the  
27 address or addresses where he or she is to engage, or intends to  
28 engage, in the fitting or selling of hearing aids, and of any changes  
29 in his or her place of business within 30 days of engaging in that  
30 practice.

31 (b) If a street address is not the address at which the licensee  
32 receives mail, the licensee shall also notify the bureau in writing  
33 of the mailing address for each location where the licensee is to  
34 engage, or intends to engage, in the fitting or selling of hearing  
35 aids, and of any change in the mailing address of his or her place  
36 or places of business.

37 ~~SEC. 27.~~

38 *SEC. 32.* Section 3366 of the Business and Professions Code  
39 is amended to read:

1     3366. A licensee shall, upon the consummation of a sale of a  
2 hearing aid, keep and maintain records in his or her office or place  
3 of business at all times and each record shall be kept and  
4 maintained for a seven-year period. All records related to the sale  
5 and fitting of hearing aids shall be open to inspection by the bureau  
6 or its authorized representatives upon reasonable notice. The  
7 records kept shall include:

8     (a) Results of test techniques as they pertain to fitting of the  
9 hearing aid.

10    (b) A copy of the written receipt required by Section 3365 and  
11 the written recommendation and receipt required by Section 3365.5  
12 when applicable.

13    (c) Records of maintenance or calibration of equipment used in  
14 the practice of fitting or selling hearing aids.

15    ~~SEC. 28.~~

16    ~~SEC. 33.~~ Section 3456 of the Business and Professions Code  
17 is amended to read:

18    3456. The amount of fees and penalties prescribed by this  
19 chapter shall be those set forth in this section unless a lower fee  
20 is fixed by the bureau:

21    (a) The fee for applicants applying for the first time for a license  
22 is seventy-five dollars (\$75), which shall not be refunded, except  
23 to applicants who are found to be ineligible to take an examination  
24 for a license. Those applicants are entitled to a refund of fifty  
25 dollars (\$50).

26    (b) The fees for taking or retaking the written and practical  
27 examinations shall be amounts fixed by the bureau, which shall  
28 be equal to the actual cost of preparing, grading, analyzing, and  
29 administering the examinations.

30    (c) The initial temporary license fee is one hundred dollars  
31 (\$100). The fee for renewal of a temporary license is one hundred  
32 dollars (\$100) for each renewal.

33    (d) The initial permanent license fee is two hundred eighty  
34 dollars (\$280). The fee for renewal of a permanent license is not  
35 more than two hundred eighty dollars (\$280) for each renewal.

36    (e) The initial branch office license fee is twenty-five dollars  
37 (\$25). The fee for renewal of a branch office license is twenty-five  
38 dollars (\$25) for each renewal.

39    (f) The delinquency fee is twenty-five dollars (\$25).

1 (g) The fee for issuance of a replacement license is twenty-five  
2 dollars (\$25).

3 (h) The continuing education course approval application fee  
4 is fifty dollars (\$50).

5 (i) The fee for official certification of licensure is fifteen dollars  
6 (\$15).

7 ~~SEC. 29.~~

8 *SEC. 34.* Section 3740 of the Business and Professions Code  
9 is amended to read:

10 3740. (a) Except as otherwise provided in this chapter, all  
11 applicants for licensure under this chapter shall have completed  
12 an education program for respiratory care that is accredited by the  
13 Commission on Accreditation for Respiratory Care or its successor  
14 and been awarded a minimum of an associate degree from an  
15 institution or university accredited by a regional accreditation  
16 agency or association recognized by the United States Department  
17 of Education.

18 (b) Notwithstanding subdivision (a), meeting the following  
19 qualifications shall be deemed equivalent to the required education:

20 (1) Enrollment in a baccalaureate degree program in an  
21 institution or university accredited by a regional accreditation  
22 agency or association recognized by the United States Department  
23 of Education.

24 (2) Completion of science, general academic, and respiratory  
25 therapy coursework commensurate with the requirements for an  
26 associate degree in subdivision (a).

27 (c) An applicant whose application is based on a diploma issued  
28 to the applicant by a foreign respiratory therapy school or a  
29 certificate or license issued by another state, district, or territory  
30 of the United States that does not meet the requirements in  
31 subdivision (a) or (b), shall enroll in an advanced standing and  
32 approved respiratory educational program for evaluation of his or  
33 her education and training and furnish documentary evidence,  
34 satisfactory to the board, that he or she satisfies all of the following  
35 requirements:

36 (1) Holds an associate degree or higher level degree equivalent  
37 to that required in subdivision (a) or (b).

38 (2) Completion of a respiratory therapy educational program  
39 equivalent to that required in subdivision (a) or (b).



1 (3) Possession of knowledge and skills to competently and safely  
2 practice respiratory care in accordance with national standards.

3 (d) Notwithstanding subdivision (c), an applicant whose  
4 application is based on education provided by a Canadian  
5 institution or university that does not meet the requirements in  
6 subdivision (a) or (b) shall furnish documentary evidence,  
7 satisfactory to the board, that he or she satisfies both of the  
8 following requirements:

9 (1) Holds a degree equivalent to that required in subdivision (a)  
10 or (b).

11 (2) Completion of a respiratory therapy educational program  
12 recognized by the Canadian Board of Respiratory Care.

13 (e) A school shall give the director of a respiratory care program  
14 adequate release time to perform his or her administrative duties  
15 consistent with the established policies of the educational  
16 institution.

17 (f) Satisfactory evidence as to educational qualifications shall  
18 take the form of certified transcripts of the applicant's college  
19 record mailed directly to the board from the educational institution.  
20 However, the board may require an evaluation of educational  
21 credentials by an evaluation service approved by the board.

22 (g) At the board's discretion, it may waive its educational  
23 requirements if evidence is presented and the board deems it as  
24 meeting the current educational requirements that will ensure the  
25 safe and competent practice of respiratory care. This evidence may  
26 include, but is not limited to:

27 (1) Work experience.

28 (2) Good standing of licensure in another state.

29 (3) Previous good standing of licensure in the State of California.

30 (h) Nothing contained in this section shall prohibit the board  
31 from disapproving any respiratory therapy school, nor from  
32 denying the applicant if the instruction, including modalities and  
33 advancements in technology, received by the applicant or the  
34 courses were not equivalent to that required by the board.

35 ~~SEC. 30.~~

36 *SEC. 35.* Section 3750.5 of the Business and Professions Code  
37 is amended to read:

38 3750.5. In addition to any other grounds specified in this  
39 chapter, the board may deny, suspend, place on probation, or

1 revoke the license of any applicant or licenseholder who has done  
2 any of the following:

3 (a) Obtained, possessed, used, or administered to himself or  
4 herself in violation of law, or furnished or administered to another,  
5 any controlled substances as defined in Division 10 (commencing  
6 with Section 11000) of the Health and Safety Code, or any  
7 dangerous drug as defined in Article 2 (commencing with Section  
8 4015) of Chapter 9, except as directed by a licensed physician and  
9 surgeon, dentist, podiatrist, or other authorized health care provider.

10 (b) Used any controlled substance as defined in Division 10  
11 (commencing with Section 11000) of the Health and Safety Code,  
12 or any dangerous drug as defined in Article 2 (commencing with  
13 Section 4015) of Chapter 9 of this code, or alcoholic beverages,  
14 to an extent or in a manner dangerous or injurious to himself or  
15 herself, or to others, or that impaired his or her ability to conduct  
16 with safety the practice authorized by his or her license.

17 (c) Applied for employment or worked in any health care  
18 profession or environment while under the influence of alcohol.

19 (d) Been convicted of a criminal offense involving the  
20 consumption or self-administration of any of the substances  
21 described in subdivisions (a) and (b), or the possession of, or  
22 falsification of a record pertaining to, the substances described in  
23 subdivision (a), in which event the record of the conviction is  
24 conclusive evidence thereof.

25 (e) Been committed or confined by a court of competent  
26 jurisdiction for intemperate use of or addiction to the use of any  
27 of the substances described in subdivisions (a), (b), and (c), in  
28 which event the court order of commitment or confinement is  
29 prima facie evidence of that commitment or confinement.

30 (f) Falsified, or made grossly incorrect, grossly inconsistent, or  
31 unintelligible entries in any hospital, patient, or other record  
32 pertaining to the substances described in subdivision (a).

33 ~~SEC. 31.~~

34 *SEC. 36.* Section 3773 of the Business and Professions Code  
35 is amended to read:

36 3773. (a) At the time of application for renewal of a respiratory  
37 care practitioner license, the licensee shall notify the board of all  
38 of the following:

39 (1) Whether he or she has been convicted of any crime  
40 subsequent to the licensee's previous renewal.

1 (2) The name and address of the licensee's current employer or  
2 employers.

3 (b) The licensee shall cooperate in furnishing additional  
4 information as requested by the board. If the licensee fails to  
5 provide the requested information within 30 days, the license shall  
6 be made inactive until the information is received.

7 ~~SEC. 32.~~

8 *SEC. 37.* Section 4013 is added to the Business and Professions  
9 Code, to read:

10 4013. (a) Any facility licensed by the board shall join the  
11 board's e-mail notification list within 60 days of obtaining a license  
12 or at the time of license renewal.

13 (b) Any facility licensed by the board shall update its e-mail  
14 address with the board's e-mail notification list within 30 days of  
15 a change in the facility's e-mail address.

16 (c) This section shall become operative on July 1, 2010.

17 ~~SEC. 33.~~

18 *SEC. 38.* Section 4101 of the Business and Professions Code  
19 is amended to read:

20 4101. (a) A pharmacist may take charge of and act as the  
21 pharmacist-in-charge of a pharmacy upon application by the  
22 pharmacy and approval by the board. Any pharmacist-in-charge  
23 who ceases to act as the pharmacist-in-charge of the pharmacy  
24 shall notify the board in writing within 30 days of the date of that  
25 change in status.

26 (b) A designated representative or a pharmacist may take charge  
27 of, and act as, the designated representative-in-charge of a  
28 wholesaler or veterinary food drug-animal retailer upon application  
29 by the wholesaler or veterinary food drug-animal retailer and  
30 approval by the board. Any designated representative-in-charge  
31 who ceases to act as the designated representative-in-charge at that  
32 entity shall notify the board in writing within 30 days of the date  
33 of that change in status.

34 ~~SEC. 34.~~

35 *SEC. 39.* Section 4112 of the Business and Professions Code  
36 is amended to read:

37 4112. (a) Any pharmacy located outside this state that ships,  
38 mails, or delivers, in any manner, controlled substances, dangerous  
39 drugs, or dangerous devices into this state shall be considered a  
40 nonresident pharmacy.

1 (b) A person may not act as a nonresident pharmacy unless he  
2 or she has obtained a license from the board. The board may  
3 register a nonresident pharmacy that is organized as a limited  
4 liability company in the state in which it is licensed.

5 (c) A nonresident pharmacy shall disclose to the board the  
6 location, names, and titles of (1) its agent for service of process in  
7 this state, (2) all principal corporate officers, if any, (3) all general  
8 partners, if any, and (4) all pharmacists who are dispensing  
9 controlled substances, dangerous drugs, or dangerous devices to  
10 residents of this state. A report containing this information shall  
11 be made on an annual basis and within 30 days after any change  
12 of office, corporate officer, partner, or pharmacist.

13 (d) All nonresident pharmacies shall comply with all lawful  
14 directions and requests for information from the regulatory or  
15 licensing agency of the state in which it is licensed as well as with  
16 all requests for information made by the board pursuant to this  
17 section. The nonresident pharmacy shall maintain, at all times, a  
18 valid unexpired license, permit, or registration to conduct the  
19 pharmacy in compliance with the laws of the state in which it is a  
20 resident. As a prerequisite to registering with the board, the  
21 nonresident pharmacy shall submit a copy of the most recent  
22 inspection report resulting from an inspection conducted by the  
23 regulatory or licensing agency of the state in which it is located.

24 (e) All nonresident pharmacies shall maintain records of  
25 controlled substances, dangerous drugs, or dangerous devices  
26 dispensed to patients in this state so that the records are readily  
27 retrievable from the records of other drugs dispensed.

28 (f) Any pharmacy subject to this section shall, during its regular  
29 hours of operation, but not less than six days per week, and for a  
30 minimum of 40 hours per week, provide a toll-free telephone  
31 service to facilitate communication between patients in this state  
32 and a pharmacist at the pharmacy who has access to the patient's  
33 records. This toll-free telephone number shall be disclosed on a  
34 label affixed to each container of drugs dispensed to patients in  
35 this state.

36 (g) The board shall adopt regulations that apply the same  
37 requirements or standards for oral consultation to a nonresident  
38 pharmacy that operates pursuant to this section and ships, mails,  
39 or delivers any controlled substances, dangerous drugs, or  
40 dangerous devices to residents of this state, as are applied to an

1 in-state pharmacy that operates pursuant to Section 4037 when the  
2 pharmacy ships, mails, or delivers any controlled substances,  
3 dangerous drugs, or dangerous devices to residents of this state.  
4 The board shall not adopt any regulations that require face-to-face  
5 consultation for a prescription that is shipped, mailed, or delivered  
6 to the patient. The regulations adopted pursuant to this subdivision  
7 shall not result in any unnecessary delay in patients receiving their  
8 medication.

9 (h) The registration fee shall be the fee specified in subdivision  
10 (a) of Section 4400.

11 (i) The registration requirements of this section shall apply only  
12 to a nonresident pharmacy that ships, mails, or delivers controlled  
13 substances, dangerous drugs, and dangerous devices into this state  
14 pursuant to a prescription.

15 (j) Nothing in this section shall be construed to authorize the  
16 dispensing of contact lenses by nonresident pharmacists except as  
17 provided by Section 4124.

18 ~~SEC. 35.~~

19 *SEC. 40.* Section 4113 of the Business and Professions Code  
20 is amended to read:

21 4113. (a) Every pharmacy shall designate a  
22 pharmacist-in-charge and, within 30 days thereof, shall notify the  
23 board in writing of the identity and license number of that  
24 pharmacist and the date he or she was designated.

25 (b) The proposed pharmacist-in-charge shall be subject to  
26 approval by the board. The board shall not issue or renew a  
27 pharmacy license without identification of an approved  
28 pharmacist-in-charge for the pharmacy.

29 (c) The pharmacist-in-charge shall be responsible for a  
30 pharmacy's compliance with all state and federal laws and  
31 regulations pertaining to the practice of pharmacy.

32 (d) Every pharmacy shall notify the board in writing, on a form  
33 designed by the board, within 30 days of the date when a  
34 pharmacist-in-charge ceases to act as the pharmacist-in-charge,  
35 and shall on the same form propose another pharmacist to take  
36 over as the pharmacist-in-charge. The proposed replacement  
37 pharmacist-in-charge shall be subject to approval by the board. If  
38 disapproved, the pharmacy shall propose another replacement  
39 within 15 days of the date of disapproval and shall continue to

1 name proposed replacements until a pharmacist-in-charge is  
2 approved by the board.

3 (e) If a pharmacy is unable, in the exercise of reasonable  
4 diligence, to identify within 30 days a permanent replacement  
5 pharmacist-in-charge to propose to the board on the notification  
6 form, the pharmacy may instead provide on that form the name of  
7 any pharmacist who is an employee, officer, or administrator of  
8 the pharmacy or the entity that owns the pharmacy and who is  
9 actively involved in the management of the pharmacy on a daily  
10 basis, to act as the interim pharmacist-in-charge for a period not  
11 to exceed 120 days. The pharmacy, or the entity that owns the  
12 pharmacy, shall be prepared during normal business hours to  
13 provide a representative of the board with the name of the interim  
14 pharmacist-in-charge with documentation of the active involvement  
15 of the interim pharmacist-in-charge in the daily management of  
16 the pharmacy, and with documentation of the pharmacy's good  
17 faith efforts prior to naming the interim pharmacist-in-charge to  
18 obtain a permanent pharmacist-in-charge. By no later than 120  
19 days following the identification of the interim  
20 pharmacist-in-charge, the pharmacy shall propose to the board the  
21 name of a pharmacist to serve as the permanent  
22 pharmacist-in-charge. The proposed permanent  
23 pharmacist-in-charge shall be subject to approval by the board. If  
24 disapproved, the pharmacy shall propose another replacement  
25 within 15 days of the date of disapproval, and shall continue to  
26 name proposed replacements until a pharmacist-in-charge is  
27 approved by the board.

28 ~~SEC. 36.~~

29 *SEC. 41.* Section 4146 is added to the Business and Professions  
30 Code, to read:

31 4146. A pharmacy may accept the return of needles and  
32 syringes from the public if contained in a sharps container, as  
33 defined in Section 117750 of the Health and Safety Code.

34 ~~SEC. 37.~~

35 *SEC. 42.* Section 4160 of the Business and Professions Code  
36 is amended to read:

37 4160. (a) A person may not act as a wholesaler of any  
38 dangerous drug or dangerous device unless he or she has obtained  
39 a license from the board.

1 (b) Upon approval by the board and the payment of the required  
2 fee, the board shall issue a license to the applicant.

3 (c) A separate license shall be required for each place of business  
4 owned or operated by a wholesaler. Each license shall be renewed  
5 annually and shall not be transferable.

6 (d) Every wholesaler shall be supervised or managed by a  
7 designated representative-in-charge. The designated  
8 representative-in-charge shall be responsible for the wholesaler's  
9 compliance with state and federal laws governing wholesalers. As  
10 part of its initial application for a license, and for each renewal,  
11 each wholesaler shall, on a form designed by the board, provide  
12 identifying information and the California license number for a  
13 designated representative or pharmacist proposed to serve as the  
14 designated representative-in-charge. The proposed designated  
15 representative-in-charge shall be subject to approval by the board.  
16 The board shall not issue or renew a wholesaler license without  
17 identification of an approved designated representative-in-charge  
18 for the wholesaler.

19 (e) Every wholesaler shall notify the board in writing, on a form  
20 designed by the board, within 30 days of the date when a  
21 designated representative-in-charge ceases to act as the designated  
22 representative-in-charge, and shall on the same form propose  
23 another designated representative or pharmacist to take over as  
24 the designated representative-in-charge. The proposed replacement  
25 designated representative-in-charge shall be subject to approval  
26 by the board. If disapproved, the wholesaler shall propose another  
27 replacement within 15 days of the date of disapproval, and shall  
28 continue to name proposed replacements until a designated  
29 representative-in-charge is approved by the board.

30 (f) A drug manufacturer premises licensed by the Food and  
31 Drug Administration or licensed pursuant to Section 111615 of  
32 the Health and Safety Code that only distributes dangerous drugs  
33 and dangerous devices of its own manufacture is exempt from this  
34 section and Section 4161.

35 (g) The board may issue a temporary license, upon conditions  
36 and for periods of time as the board determines to be in the public  
37 interest. A temporary license fee shall be five hundred fifty dollars  
38 (\$550) or another amount established by the board not to exceed  
39 the annual fee for renewal of a license to compound injectable  
40 sterile drug products. When needed to protect public safety, a

1 temporary license may be issued for a period not to exceed 180  
2 days, subject to terms and conditions that the board deems  
3 necessary. If the board determines that a temporary license was  
4 issued by mistake or denies the application for a permanent license,  
5 the temporary license shall terminate upon either personal service  
6 of the notice of termination upon the licenseholder or service by  
7 certified mail, return receipt requested, at the licenseholder's  
8 address of record with the board, whichever occurs first. Neither  
9 for purposes of retaining a temporary license, nor for purposes of  
10 any disciplinary or license denial proceeding before the board,  
11 shall the temporary licenseholder be deemed to have a vested  
12 property right or interest in the license.

13 ~~SEC. 38.~~

14 *SEC. 43.* Section 4196 of the Business and Professions Code  
15 is amended to read:

16 4196. (a) No person shall conduct a veterinary food-animal  
17 drug retailer in the State of California unless he or she has obtained  
18 a license from the board. A license shall be required for each  
19 veterinary food-animal drug retailer owned or operated by a  
20 specific person. A separate license shall be required for each of  
21 the premises of any person operating a veterinary food-animal  
22 drug retailer in more than one location. The license shall be  
23 renewed annually and shall not be transferable.

24 (b) The board may issue a temporary license, upon conditions  
25 and for periods of time as the board determines to be in the public  
26 interest. A temporary license fee shall be fixed by the board at an  
27 amount not to exceed the annual fee for renewal of a license to  
28 conduct a veterinary food-animal drug retailer.

29 (c) No person other than a pharmacist, an intern pharmacist, a  
30 designated representative, an authorized officer of the law, or a  
31 person authorized to prescribe, shall be permitted in that area,  
32 place, or premises described in the permit issued by the board  
33 pursuant to Section 4041, wherein veterinary food-animal drugs  
34 are stored, possessed, or repacked. A pharmacist or designated  
35 representative shall be responsible for any individual who enters  
36 the veterinary food-animal drug retailer for the purpose of  
37 performing clerical, inventory control, housekeeping, delivery,  
38 maintenance, or similar functions relating to the veterinary  
39 food-animal drug retailer.



(d) Every veterinary food-animal drug retailer shall be supervised or managed by a designated representative-in-charge. The designated representative-in-charge shall be responsible for the veterinary food-animal drug retailer's compliance with state and federal laws governing veterinary food-animal drug retailers. As part of its initial application for a license, and for each renewal, each veterinary food-animal drug retailer shall, on a form designed by the board, provide identifying information and the California license number for a designated representative or pharmacist proposed to serve as the designated representative-in-charge. The proposed designated representative-in-charge shall be subject to approval by the board. The board shall not issue or renew a veterinary food-animal drug retailer license without identification of an approved designated representative-in-charge for the veterinary food-animal drug retailer.

(e) Every veterinary food-animal drug retailer shall notify the board in writing, on a form designed by the board, within 30 days of the date when a designated representative-in-charge who ceases to act as the designated representative or pharmacist to take over as the designated representative-in-charge. The proposed replacement designated representative-in-charge shall be subject to approval by the board. If disapproved, the veterinary food-animal drug retailer shall propose another replacement within 15 days of the date of disapproval, and shall continue to name proposed replacements until a designated representative-in-charge is approved by the board.

(f) For purposes of this section, designated representative-in-charge means a person granted a designated representative license pursuant to Section 4053, or a registered pharmacist, who is the supervisor or manager of the facility.

*SEC. 44. Section 4200.3 of the Business and Professions Code is amended to read:*

4200.3. (a) The examination process shall be regularly reviewed pursuant to Section 139.

(b) The examination process shall meet the standards and guidelines set forth in the Standards for Educational and Psychological Testing and the Federal Uniform Guidelines for Employee Selection Procedures. The board shall work with the Office of Professional Examination ~~Resources~~ *Services* of the department or with an equivalent organization who shall certify

1 at minimum once every five years that the examination process  
2 meets these national testing standards. If the department determines  
3 that the examination process fails to meet these standards, the  
4 board shall terminate its use of the North American Pharmacy  
5 Licensure Examination and shall use only the written and practical  
6 examination developed by the board.

7 (c) The examination shall meet the mandates of subdivision (a)  
8 of Section 12944 of the Government Code.

9 (d) The board shall work with the Office of *Professional*  
10 Examination ~~Resources Services~~ or with an equivalent organization  
11 to develop the state jurisprudence examination to ensure that  
12 applicants for licensure are evaluated on their knowledge of  
13 applicable state laws and regulations.

14 (e) The board shall annually publish the pass and fail rates for  
15 the pharmacist's licensure examination administered pursuant to  
16 Section 4200, including a comparison of historical pass and fail  
17 rates before utilization of the North American Pharmacist Licensure  
18 Examination.

19 (f) The board shall report to the Joint Committee on Boards,  
20 Commissions, and Consumer Protection and the department as  
21 part of its next scheduled review, the pass rates of applicants who  
22 sat for the national examination compared with the pass rates of  
23 applicants who sat for the prior state examination. This report shall  
24 be a component of the evaluation of the examination process that  
25 is based on psychometrically sound principles for establishing  
26 minimum qualifications and levels of competency.

27 *SEC. 45. Section 4200.4 of the Business and Professions Code*  
28 *is amended to read:*

29 4200.4. An applicant who fails the national examination may  
30 not retake the examination for at least 90 days or for a period  
31 established by regulations adopted by the board in consultation  
32 with the Office of *Professional Examination-Resources Services*  
33 of the department.

34 ~~SEC. 39.~~

35 *SEC. 46. Section 4510.1 of the Business and Professions Code*  
36 *is amended to read:*

37 4510.1. An applicant for license by examination shall submit  
38 a written application in the form prescribed by the board. Provided  
39 that the application for licensure is received by the board no later  
40 than four months after completion of a board accredited psychiatric

1 technician program and approval of the application, the board may  
2 issue an interim permit authorizing the applicant to practice all  
3 skills included in the permittee's basic course of study, pending  
4 the results of the first licensing examination, or for a period of nine  
5 months, whichever occurs first.

6 A permittee shall function under the supervision of a licensed  
7 psychiatric technician or a registered nurse, who shall be present  
8 and available on the premises during the time the permittee is  
9 rendering professional services. The permittee may perform any  
10 function taught in the permittee's basic psychiatric technician  
11 program.

12 If the applicant passes the examination, the interim permit shall  
13 remain in effect until an initial license is issued by the board or  
14 for a maximum period of six months after passing the examination,  
15 whichever occurs first. If the applicant fails the examination, the  
16 interim permit shall terminate upon notice by certified mail, return  
17 receipt requested, or if the applicant fails to receive the notice,  
18 upon the date specified in the interim permit, whichever occurs  
19 first. An interim permittee shall not use any title or designation  
20 other than psychiatric technician interim permittee or "P.T.I.P."

21 ~~SEC. 40.~~

22 *SEC. 47.* Section 4933 of the Business and Professions Code  
23 is amended to read:

24 4933. (a) The board shall administer this chapter.

25 (b) The board may adopt, amend, or repeal, in accordance with  
26 the Administrative Procedure Act (Chapter 3.5 (commencing with  
27 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
28 Code), regulations as may be necessary to enable it to carry into  
29 effect the provisions of law relating to the practice of acupuncture.

30 (c) Four members of the board, including at least one  
31 acupuncturist, shall constitute a quorum to conduct business.

32 (d) It shall require an affirmative vote of a majority of those  
33 present at a meeting of the board to take any action or pass any  
34 motion.

35 *SEC. 48.* Section 4938 of the Business and Professions Code  
36 is amended to read:

37 4938. The board shall issue a license to practice acupuncture  
38 to any person who makes an application and meets the following  
39 requirements:

40 (a) Is at least 18 years of age.

(b) Furnishes satisfactory evidence of completion of one of the following:

(1) An educational and training program approved by the board pursuant to Section 4939.

(2) Satisfactory completion of a tutorial program in the practice of an acupuncturist which is approved by the board.

(3) In the case of an applicant who has completed education and training outside the United States and Canada, documented educational training and clinical experience which meets the standards established pursuant to Sections 4939 and 4941.

(c) Passes a written examination administered by the board that tests the applicant's ability, competency, and knowledge in the practice of an acupuncturist. The written examination shall be developed by the Office of *Professional Examination Resources Services* of the Department of Consumer Affairs.

(d) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

(e) Completes a clinical internship training program approved by the board. The clinical internship training program shall not exceed nine months in duration and shall be located in a clinic in this state, which is approved by the board pursuant to Section 4939. The length of the clinical internship shall depend upon the grades received in the examination and the clinical training already satisfactorily completed by the individual prior to taking the examination. On and after January 1, 1987, individuals with 800 or more hours of documented clinical training shall be deemed to have met this requirement. The purpose of the clinical internship training program shall be to ~~assure~~ *ensure* a minimum level of clinical competence.

Each applicant who qualifies for a license shall pay, as a condition precedent to its issuance and in addition to other fees required, the initial licensure fee.

~~SEC. 41.~~

*SEC. 49.* Section 4980.45 of the Business and Professions Code is amended to read:

4980.45. (a) A licensed professional in private practice who has satisfied the requirements of subdivision (g) of Section 4980.03 may supervise or employ, at any one time, no more than a total of two individuals registered as either a marriage and family therapist intern or associate clinical social worker in that private practice.

(b) A marriage and family therapy corporation may employ, at any one time, no more than a total of two individuals registered as either a marriage and family therapist intern or associate clinical social worker for each employee or shareholder who has satisfied the requirements of subdivision (g) of Section 4980.03. In no event shall any corporation employ, at any one time, more than a total of 10 individuals registered as either a marriage and family therapist intern or associate clinical social worker. In no event shall any supervisor supervise, at any one time, more than a total of two individuals registered as either a marriage and family therapist intern or associate clinical social worker. Persons who supervise individuals registered as either a marriage and family therapist intern or associate clinical social worker shall be employed full time by the professional corporation and shall be actively engaged in performing professional services at and for the professional corporation. Employment and supervision within a marriage and family therapy corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

~~SEC. 42.~~

*SEC. 50.* Section 4980.48 of the Business and Professions Code is amended to read:

4980.48. (a) A trainee shall inform each client or patient, prior to performing any professional services, that he or she is unlicensed and under the supervision of a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, or a licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology.

(b) Any person that advertises services performed by a trainee shall include the trainee's name, the supervisor's license designation or abbreviation, and the supervisor's license number.

~~SEC. 43.~~

*SEC. 51.* Section 4982 of the Business and Professions Code is amended to read:

4982. The board may deny a license or registration or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

1 (a) The conviction of a crime substantially related to the  
2 qualifications, functions, or duties of a licensee or registrant under  
3 this chapter. The record of conviction shall be conclusive evidence  
4 only of the fact that the conviction occurred. The board may inquire  
5 into the circumstances surrounding the commission of the crime  
6 in order to fix the degree of discipline or to determine if the  
7 conviction is substantially related to the qualifications, functions,  
8 or duties of a licensee or registrant under this chapter. A plea or  
9 verdict of guilty or a conviction following a plea of nolo contendere  
10 made to a charge substantially related to the qualifications,  
11 functions, or duties of a licensee or registrant under this chapter  
12 shall be deemed to be a conviction within the meaning of this  
13 section. The board may order any license or registration suspended  
14 or revoked, or may decline to issue a license or registration when  
15 the time for appeal has elapsed, or the judgment of conviction has  
16 been affirmed on appeal, or, when an order granting probation is  
17 made suspending the imposition of sentence, irrespective of a  
18 subsequent order under Section 1203.4 of the Penal Code allowing  
19 the person to withdraw a plea of guilty and enter a plea of not  
20 guilty, or setting aside the verdict of guilty, or dismissing the  
21 accusation, information, or indictment.

22 (b) Securing a license or registration by fraud, deceit, or  
23 misrepresentation on any application for licensure or registration  
24 submitted to the board, whether engaged in by an applicant for a  
25 license or registration, or by a licensee in support of any application  
26 for licensure or registration.

27 (c) Administering to himself or herself any controlled substance  
28 or using of any of the dangerous drugs specified in Section 4022,  
29 or of any alcoholic beverage to the extent, or in a manner, as to be  
30 dangerous or injurious to the person applying for a registration or  
31 license or holding a registration or license under this chapter, or  
32 to any other person, or to the public, or, to the extent that the use  
33 impairs the ability of the person applying for or holding a  
34 registration or license to conduct with safety to the public the  
35 practice authorized by the registration or license. The board shall  
36 deny an application for a registration or license or revoke the  
37 license or registration of any person, other than one who is licensed  
38 as a physician and surgeon, who uses or offers to use drugs in the  
39 course of performing marriage and family therapy services.

1 (d) Gross negligence or incompetence in the performance of  
2 marriage and family therapy.

3 (e) Violating, attempting to violate, or conspiring to violate any  
4 of the provisions of this chapter or any regulation adopted by the  
5 board.

6 (f) Misrepresentation as to the type or status of a license or  
7 registration held by the person, or otherwise misrepresenting or  
8 permitting misrepresentation of his or her education, professional  
9 qualifications, or professional affiliations to any person or entity.

10 (g) Impersonation of another by any licensee, registrant, or  
11 applicant for a license or registration, or, in the case of a licensee,  
12 allowing any other person to use his or her license or registration.

13 (h) Aiding or abetting, or employing, directly or indirectly, any  
14 unlicensed or unregistered person to engage in conduct for which  
15 a license or registration is required under this chapter.

16 (i) Intentionally or recklessly causing physical or emotional  
17 harm to any client.

18 (j) The commission of any dishonest, corrupt, or fraudulent act  
19 substantially related to the qualifications, functions, or duties of a  
20 licensee or registrant.

21 (k) Engaging in sexual relations with a client, or a former client  
22 within two years following termination of therapy, soliciting sexual  
23 relations with a client, or committing an act of sexual abuse, or  
24 sexual misconduct with a client, or committing an act punishable  
25 as a sexually related crime, if that act or solicitation is substantially  
26 related to the qualifications, functions, or duties of a marriage and  
27 family therapist.

28 (l) Performing, or holding oneself out as being able to perform,  
29 or offering to perform, or permitting any trainee or registered intern  
30 under supervision to perform, any professional services beyond  
31 the scope of the license authorized by this chapter.

32 (m) Failure to maintain confidentiality, except as otherwise  
33 required or permitted by law, of all information that has been  
34 received from a client in confidence during the course of treatment  
35 and all information about the client that is obtained from tests or  
36 other means.

37 (n) Prior to the commencement of treatment, failing to disclose  
38 to the client or prospective client the fee to be charged for the  
39 professional services, or the basis upon which that fee will be  
40 computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of any registered intern, associate clinical social worker, or trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a trainee or registered intern under one's supervision or control to perform, or permitting the trainee or registered intern to hold himself or herself out as competent to perform, professional services beyond the trainee's or registered intern's level of education, training, or experience.

(u) The violation of any statute or regulation governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(w) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(x) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.



1 (y) Willful violation of Chapter 1 (commencing with Section  
2 123100) of Part 1 of Division 106 of the Health and Safety Code.

3 (z) Failure to comply with Section 2290.5.

4 (aa) (1) Engaging in an act described in Section 261, 286, 288a,  
5 or 289 of the Penal Code with a minor or an act described in  
6 Section 288 or 288.5 of the Penal Code regardless of whether the  
7 act occurred prior to or after the time the registration or license  
8 was issued by the board. An act described in this subdivision  
9 occurring prior to the effective date of this subdivision shall  
10 constitute unprofessional conduct and shall subject the licensee to  
11 refusal, suspension, or revocation of a license under this section.

12 (2) The Legislature hereby finds and declares that protection of  
13 the public, and in particular minors, from sexual misconduct by a  
14 licensee is a compelling governmental interest, and that the ability  
15 to suspend or revoke a license for sexual conduct with a minor  
16 occurring prior to the effective date of this section is equally  
17 important to protecting the public as is the ability to refuse a license  
18 for sexual conduct with a minor occurring prior to the effective  
19 date of this section.

20 (ab) Engaging in any conduct that subverts or attempts to subvert  
21 any licensing examination or the administration of an examination  
22 as described in Section 123.

23 ~~SEC. 44.~~

24 *SEC. 52.* Section 4982.2 of the Business and Professions Code  
25 is amended to read:

26 4982.2. (a) A licensed marriage and family therapist, marriage  
27 and family therapist intern, licensed clinical social worker,  
28 associate clinical social worker, or licensed educational  
29 psychologist whose license or registration has been revoked or  
30 suspended or who has been placed on probation may petition the  
31 board for reinstatement or modification of the penalty, including  
32 modification or termination of probation, after a period not less  
33 than the following minimum periods has elapsed from the effective  
34 date of the decision ordering the disciplinary action, or if the order  
35 of the board, or any portion of it, is stayed by the board itself, or  
36 by the superior court, from the date the disciplinary action is  
37 actually implemented in its entirety:

38 (1) At least three years for reinstatement of a license or  
39 registration that was revoked for unprofessional conduct, except  
40 that the board may, in its sole discretion at the time of adoption,

1 specify in its order that a petition for reinstatement may be filed  
2 after two years.

3 (2) At least two years for early termination of any probation  
4 period of three years, or more.

5 (3) At least one year for modification of a condition, or  
6 reinstatement of a license or registration revoked for mental or  
7 physical illness, or termination of probation of less than three years.

8 (b) The petition may be heard by the board itself, or the board  
9 may assign the petition to an administrative law judge pursuant to  
10 Section 11512 of the Government Code. The board shall give  
11 notice to the Attorney General of the filing of the petition. The  
12 petitioner and the Attorney General shall be given timely notice  
13 by letter of the time and place of the hearing on the petition, and  
14 an opportunity to present both oral and documentary evidence and  
15 argument to the board. The petitioner shall at all times have the  
16 burden of production and proof to establish by clear and convincing  
17 evidence that he or she is entitled to the relief sought in the petition.  
18 The board, when it is hearing the petition itself, or an administrative  
19 law judge sitting for the board, may consider all activities of the  
20 petitioner since the disciplinary action was taken, the offense for  
21 which the petitioner was disciplined, the petitioner's activities  
22 during the time his or her license was in good standing, and the  
23 petitioner's rehabilitative efforts, general reputation for truth, and  
24 professional ability.

25 (c) The hearing may be continued from time to time as the board  
26 or the administrative law judge deems appropriate.

27 (d) The board itself, or the administrative law judge if one is  
28 designated by the board, shall hear the petition and shall prepare  
29 a written decision setting forth the reasons supporting the decision.  
30 In a decision granting a petition reinstating a license or modifying  
31 a penalty, the board itself, or the administrative law judge may  
32 impose any terms and conditions that the agency deems reasonably  
33 appropriate, including those set forth in Sections 823 and 4982.15.  
34 Where a petition is heard by an administrative law judge sitting  
35 alone, the administrative law judge shall prepare a proposed  
36 decision and submit it to the board.

37 (e) The board may take action with respect to the proposed  
38 decision and petition as it deems appropriate.

39 (f) The petition shall be on a form provided by the board, and  
40 shall state any facts and information as may be required by the

board including, but not limited to, proof of compliance with the terms and conditions of the underlying disciplinary order.

(g) The petitioner shall pay a fingerprinting fee and provide a current set of his or her fingerprints to the board. The petitioner shall execute a form authorizing release to the board or its designee, of all information concerning the petitioner's current physical and mental condition. Information provided to the board pursuant to the release shall be confidential and shall not be subject to discovery or subpoena in any other proceeding, and shall not be admissible in any action, other than before the board, to determine the petitioner's fitness to practice as required by Section 822.

(h) The petition shall be verified by the petitioner, who shall file an original and sufficient copies of the petition, together with any supporting documents, for the members of the board, the administrative law judge, and the Attorney General.

(i) The board may delegate to its executive officer authority to order investigation of the contents of the petition, but in no case, may the hearing on the petition be delayed more than 180 days from its filing without the consent of the petitioner.

(j) The petitioner may request that the board schedule the hearing on the petition for a board meeting at a specific city where the board regularly meets.

(k) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole, or the petitioner is required to register pursuant to Section 290 of the Penal Code. No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.

(l) Except in those cases where the petitioner has been disciplined for violation of Section 822, the board may in its discretion deny without hearing or argument any petition that is filed pursuant to this section within a period of two years from the effective date of a prior decision following a hearing under this section.

~~SEC. 45.~~

*SEC. 53.* Section 4989.22 of the Business and Professions Code is amended to read:

4989.22. (a) Only persons who satisfy the requirements of Section 4989.20 are eligible to take the licensure examination.

(b) An applicant who fails the written examination may, within one year from the notification date of failure, retake the examination as regularly scheduled without further application. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all fees required.

(c) Notwithstanding any other provision of law, the board may destroy all examination materials two years after the date of an examination.

(d) The board shall not deny any applicant, whose application for licensure is complete, admission to the standard written examination, nor shall the board postpone or delay any applicant's standard written examination or delay informing the candidate of the results of the standard written examination, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(e) If an applicant for examination who has passed the standard written examination is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take the clinical vignette written examination for licensure, but may withhold the results of the examination or notify the applicant that licensure will not be granted pending completion of the investigation.

(f) Notwithstanding Section 135, the board may deny any applicant who has previously failed either the standard written or clinical vignette written examination permission to retake either examination pending completion of the investigation of any complaint against the applicant. Nothing in this section shall prohibit the board from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Section 11503 or 11504 of the Government Code, or the applicant has been denied in accordance with subdivision (b) of Section 485.

~~SEC. 46.~~

*SEC. 54.* Section 4989.49 is added to the Business and Professions Code, to read:

4989.49. "Advertising," as used in this chapter, includes, but is not limited to, any public communication as defined in

subdivision (a) of Section 651, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper, magazine, or directory, or any printed matter whatsoever, with or without any limiting qualification. Signs within religious buildings or notices in bulletins from a religious organization mailed to a congregation shall not be construed as advertising within the meaning of this chapter.

~~SEC. 47.~~

*SEC. 55.* Section 4989.54 of the Business and Professions Code is amended to read:

4989.54. The board may deny a license or may suspend or revoke the license of a licensee if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of an educational psychologist.

(1) The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(2) The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee under this chapter.

(3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee under this chapter shall be deemed to be a conviction within the meaning of this section.

(4) The board may order a license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty or setting aside the verdict of guilty or dismissing the accusation, information, or indictment.

(b) Securing a license by fraud, deceit, or misrepresentation on an application for licensure submitted to the board, whether

1 engaged in by an applicant for a license or by a licensee in support  
2 of an application for licensure.

3 (c) Administering to himself or herself a controlled substance  
4 or using any of the dangerous drugs specified in Section 4022 or  
5 an alcoholic beverage to the extent, or in a manner, as to be  
6 dangerous or injurious to himself or herself or to any other person  
7 or to the public or to the extent that the use impairs his or her ability  
8 to safely perform the functions authorized by the license. The board  
9 shall deny an application for a license or revoke the license of any  
10 person, other than one who is licensed as a physician and surgeon,  
11 who uses or offers to use drugs in the course of performing  
12 educational psychology.

13 (d) Failure to comply with the consent provisions in Section  
14 2290.5.

15 (e) Advertising in a manner that is false, fraudulent, misleading,  
16 or deceptive, as defined in Section 651.

17 (f) Violating, attempting to violate, or conspiring to violate any  
18 of the provisions of this chapter or any regulation adopted by the  
19 board.

20 (g) Commission of any dishonest, corrupt, or fraudulent act  
21 substantially related to the qualifications, functions, or duties of a  
22 licensee.

23 (h) Denial of licensure, revocation, suspension, restriction, or  
24 any other disciplinary action imposed by another state or territory  
25 or possession of the United States or by any other governmental  
26 agency, on a license, certificate, or registration to practice  
27 educational psychology or any other healing art. A certified copy  
28 of the disciplinary action, decision, or judgment shall be conclusive  
29 evidence of that action.

30 (i) Revocation, suspension, or restriction by the board of a  
31 license, certificate, or registration to practice as a clinical social  
32 worker or marriage and family therapist.

33 (j) Failure to keep records consistent with sound clinical  
34 judgment, the standards of the profession, and the nature of the  
35 services being rendered.

36 (k) Gross negligence or incompetence in the practice of  
37 educational psychology.

38 (l) Misrepresentation as to the type or status of a license held  
39 by the licensee or otherwise misrepresenting or permitting

1 misrepresentation of his or her education, professional  
2 qualifications, or professional affiliations to any person or entity.

3 (m) Intentionally or recklessly causing physical or emotional  
4 harm to any client.

5 (n) Engaging in sexual relations with a client or a former client  
6 within two years following termination of professional services,  
7 soliciting sexual relations with a client, or committing an act of  
8 sexual abuse or sexual misconduct with a client or committing an  
9 act punishable as a sexually related crime, if that act or solicitation  
10 is substantially related to the qualifications, functions, or duties of  
11 a licensed educational psychologist.

12 (o) Prior to the commencement of treatment, failing to disclose  
13 to the client or prospective client the fee to be charged for the  
14 professional services or the basis upon which that fee will be  
15 computed.

16 (p) Paying, accepting, or soliciting any consideration,  
17 compensation, or remuneration, whether monetary or otherwise,  
18 for the referral of professional clients.

19 (q) Failing to maintain confidentiality, except as otherwise  
20 required or permitted by law, of all information that has been  
21 received from a client in confidence during the course of treatment  
22 and all information about the client that is obtained from tests or  
23 other means.

24 (r) Performing, holding himself or herself out as being able to  
25 perform, or offering to perform any professional services beyond  
26 the scope of the license authorized by this chapter or beyond his  
27 or her field or fields of competence as established by his or her  
28 education, training, or experience.

29 (s) Reproducing or describing in public, or in any publication  
30 subject to general public distribution, any psychological test or  
31 other assessment device the value of which depends in whole or  
32 in part on the naivete of the subject in ways that might invalidate  
33 the test or device. An educational psychologist shall limit access  
34 to the test or device to persons with professional interests who can  
35 be expected to safeguard its use.

36 (t) Aiding or abetting an unlicensed person to engage in conduct  
37 requiring a license under this chapter.

38 (u) When employed by another person or agency, encouraging,  
39 either orally or in writing, the employer's or agency's clientele to

1 utilize his or her private practice for further counseling without  
2 the approval of the employing agency or administration.

3 (v) Failing to comply with the child abuse reporting  
4 requirements of Section 11166 of the Penal Code.

5 (w) Failing to comply with the elder and adult dependent abuse  
6 reporting requirements of Section 15630 of the Welfare and  
7 Institutions Code.

8 (x) Willful violation of Chapter 1 (commencing with Section  
9 123100) of Part 1 of Division 106 of the Health and Safety Code.

10 (y) (1) Engaging in an act described in Section 261, 286, 288a,  
11 or 289 of the Penal Code with a minor or an act described in  
12 Section 288 or 288.5 of the Penal Code regardless of whether the  
13 act occurred prior to or after the time the registration or license  
14 was issued by the board. An act described in this subdivision  
15 occurring prior to the effective date of this subdivision shall  
16 constitute unprofessional conduct and shall subject the licensee to  
17 refusal, suspension, or revocation of a license under this section.

18 (2) The Legislature hereby finds and declares that protection of  
19 the public, and in particular minors, from sexual misconduct by a  
20 licensee is a compelling governmental interest, and that the ability  
21 to suspend or revoke a license for sexual conduct with a minor  
22 occurring prior to the effective date of this section is equally  
23 important to protecting the public as is the ability to refuse a license  
24 for sexual conduct with a minor occurring prior to the effective  
25 date of this section.

26 (z) Engaging in any conduct that subverts or attempts to subvert  
27 any licensing examination or the administration of the examination  
28 as described in Section 123.

29 (aa) Impersonation of another by any licensee or applicant for  
30 a license, or, in the case of a licensee, allowing any other person  
31 to use his or her license.

32 (ab) Permitting a person under his or her supervision or control  
33 to perform, or permitting that person to hold himself or herself out  
34 as competent to perform, professional services beyond the level  
35 of education, training, or experience of that person.

36 ~~SEC. 48.~~

37 *SEC. 56.* Section 4992.1 of the Business and Professions Code  
38 is amended to read:



1 4992.1. (a) Only individuals who have the qualifications  
2 prescribed by the board under this chapter are eligible to take the  
3 examination.

4 (b) Every applicant who is issued a clinical social worker license  
5 shall be examined by the board.

6 (c) Notwithstanding any other provision of law, the board may  
7 destroy all examination materials two years following the date of  
8 an examination.

9 (d) The board shall not deny any applicant, whose application  
10 for licensure is complete, admission to the standard written  
11 examination, nor shall the board postpone or delay any applicant's  
12 standard written examination or delay informing the candidate of  
13 the results of the standard written examination, solely upon the  
14 receipt by the board of a complaint alleging acts or conduct that  
15 would constitute grounds to deny licensure.

16 (e) If an applicant for examination who has passed the standard  
17 written examination is the subject of a complaint or is under board  
18 investigation for acts or conduct that, if proven to be true, would  
19 constitute grounds for the board to deny licensure, the board shall  
20 permit the applicant to take the clinical vignette written  
21 examination for licensure, but may withhold the results of the  
22 examination or notify the applicant that licensure will not be  
23 granted pending completion of the investigation.

24 (f) Notwithstanding Section 135, the board may deny any  
25 applicant who has previously failed either the standard written or  
26 clinical vignette written examination permission to retake either  
27 examination pending completion of the investigation of any  
28 complaint against the applicant. Nothing in this section shall  
29 prohibit the board from denying an applicant admission to any  
30 examination, withholding the results, or refusing to issue a license  
31 to any applicant when an accusation or statement of issues has  
32 been filed against the applicant pursuant to Section 11503 or 11504  
33 of the Government Code, or the applicant has been denied in  
34 accordance with subdivision (b) of Section 485.

35 (g) On or after January 1, 2002, no applicant shall be eligible  
36 to participate in a clinical vignette written examination if his or  
37 her passing score on the standard written examination occurred  
38 more than seven years before.

1     ~~SEC. 49.~~

2     *SEC. 57.* Section 4992.2 is added to the Business and  
3 Professions Code, to read:

4     4992.2. “Advertising,” as used in this chapter, includes, but is  
5 not limited to, any public communication as defined in subdivision  
6 (a) of Section 651, the issuance of any card, sign, or device to any  
7 person, or the causing, permitting, or allowing of any sign or  
8 marking on, or in, any building or structure, or in any newspaper,  
9 magazine, or directory, or any printed matter whatsoever, with or  
10 without any limiting qualification. Signs within religious buildings  
11 or notices in bulletins from a religious organization mailed to a  
12 congregation shall not be construed as advertising within the  
13 meaning of this chapter.

14     ~~SEC. 50.~~

15     *SEC. 58.* Section 4992.3 of the Business and Professions Code  
16 is amended to read:

17     4992.3. The board may deny a license or a registration, or may  
18 suspend or revoke the license or registration of a licensee or  
19 registrant if he or she has been guilty of unprofessional conduct.  
20 Unprofessional conduct includes, but is not limited to, the  
21 following:

22     (a) The conviction of a crime substantially related to the  
23 qualifications, functions, or duties of a licensee or registrant under  
24 this chapter. The record of conviction shall be conclusive evidence  
25 only of the fact that the conviction occurred. The board may inquire  
26 into the circumstances surrounding the commission of the crime  
27 in order to fix the degree of discipline or to determine if the  
28 conviction is substantially related to the qualifications, functions,  
29 or duties of a licensee or registrant under this chapter. A plea or  
30 verdict of guilty or a conviction following a plea of nolo contendere  
31 made to a charge substantially related to the qualifications,  
32 functions, or duties of a licensee or registrant under this chapter  
33 is a conviction within the meaning of this section. The board may  
34 order any license or registration suspended or revoked, or may  
35 decline to issue a license or registration when the time for appeal  
36 has elapsed, or the judgment of conviction has been affirmed on  
37 appeal, or, when an order granting probation is made suspending  
38 the imposition of sentence, irrespective of a subsequent order under  
39 Section 1203.4 of the Penal Code allowing the person to withdraw  
40 a plea of guilty and enter a plea of not guilty, or setting aside the

1 verdict of guilty, or dismissing the accusation, information, or  
2 indictment.

3 (b) Securing a license or registration by fraud, deceit, or  
4 misrepresentation on any application for licensure or registration  
5 submitted to the board, whether engaged in by an applicant for a  
6 license or registration, or by a licensee in support of any application  
7 for licensure or registration.

8 (c) Administering to himself or herself any controlled substance  
9 or using any of the dangerous drugs specified in Section 4022 or  
10 any alcoholic beverage to the extent, or in a manner, as to be  
11 dangerous or injurious to the person applying for a registration or  
12 license or holding a registration or license under this chapter, or  
13 to any other person, or to the public, or, to the extent that the use  
14 impairs the ability of the person applying for or holding a  
15 registration or license to conduct with safety to the public the  
16 practice authorized by the registration or license. The board shall  
17 deny an application for a registration or license or revoke the  
18 license or registration of any person who uses or offers to use drugs  
19 in the course of performing clinical social work. This provision  
20 does not apply to any person also licensed as a physician and  
21 surgeon under Chapter 5 (commencing with Section 2000) or the  
22 Osteopathic Act who lawfully prescribes drugs to a patient under  
23 his or her care.

24 (d) Incompetence in the performance of clinical social work.

25 (e) An act or omission that falls sufficiently below the standard  
26 of conduct of the profession as to constitute an act of gross  
27 negligence.

28 (f) Violating, attempting to violate, or conspiring to violate this  
29 chapter or any regulation adopted by the board.

30 (g) Misrepresentation as to the type or status of a license or  
31 registration held by the person, or otherwise misrepresenting or  
32 permitting misrepresentation of his or her education, professional  
33 qualifications, or professional affiliations to any person or entity.  
34 For purposes of this subdivision, this misrepresentation includes,  
35 but is not limited to, misrepresentation of the person's  
36 qualifications as an adoption service provider pursuant to Section  
37 8502 of the Family Code.

38 (h) Impersonation of another by any licensee, registrant, or  
39 applicant for a license or registration, or, in the case of a licensee,  
40 allowing any other person to use his or her license or registration.

1 (i) Aiding or abetting any unlicensed or unregistered person to  
2 engage in conduct for which a license or registration is required  
3 under this chapter.

4 (j) Intentionally or recklessly causing physical or emotional  
5 harm to any client.

6 (k) The commission of any dishonest, corrupt, or fraudulent act  
7 substantially related to the qualifications, functions, or duties of a  
8 licensee or registrant.

9 (l) Engaging in sexual relations with a client or with a former  
10 client within two years from the termination date of therapy with  
11 the client, soliciting sexual relations with a client, or committing  
12 an act of sexual abuse, or sexual misconduct with a client, or  
13 committing an act punishable as a sexually related crime, if that  
14 act or solicitation is substantially related to the qualifications,  
15 functions, or duties of a clinical social worker.

16 (m) Performing, or holding one's self out as being able to  
17 perform, or offering to perform or permitting, any registered  
18 associate clinical social worker or intern under supervision to  
19 perform any professional services beyond the scope of the license  
20 authorized by this chapter.

21 (n) Failure to maintain confidentiality, except as otherwise  
22 required or permitted by law, of all information that has been  
23 received from a client in confidence during the course of treatment  
24 and all information about the client that is obtained from tests or  
25 other means.

26 (o) Prior to the commencement of treatment, failing to disclose  
27 to the client or prospective client the fee to be charged for the  
28 professional services, or the basis upon which that fee will be  
29 computed.

30 (p) Paying, accepting, or soliciting any consideration,  
31 compensation, or remuneration, whether monetary or otherwise,  
32 for the referral of professional clients. All consideration,  
33 compensation, or remuneration shall be in relation to professional  
34 counseling services actually provided by the licensee. Nothing in  
35 this subdivision shall prevent collaboration among two or more  
36 licensees in a case or cases. However, no fee shall be charged for  
37 that collaboration, except when disclosure of the fee has been made  
38 in compliance with subdivision (o).

39 (q) Advertising in a manner that is false, fraudulent, misleading,  
40 or deceptive, as defined in Section 651.

1 (r) Reproduction or description in public, or in any publication  
2 subject to general public distribution, of any psychological test or  
3 other assessment device, the value of which depends in whole or  
4 in part on the naivete of the subject, in ways that might invalidate  
5 the test or device. A licensee shall limit access to that test or device  
6 to persons with professional interest who are expected to safeguard  
7 its use.

8 (s) Any conduct in the supervision of any registered associate  
9 clinical social worker, intern, or trainee by any licensee that violates  
10 this chapter or any rules or regulations adopted by the board.

11 (t) Failure to keep records consistent with sound clinical  
12 judgment, the standards of the profession, and the nature of the  
13 services being rendered.

14 (u) Failure to comply with the child abuse reporting  
15 requirements of Section 11166 of the Penal Code.

16 (v) Failure to comply with the elder and dependent adult abuse  
17 reporting requirements of Section 15630 of the Welfare and  
18 Institutions Code.

19 (w) Willful violation of Chapter 1 (commencing with Section  
20 123100) of Part 1 of Division 106 of the Health and Safety Code.

21 (x) Failure to comply with Section 2290.5.

22 (y) (1) Engaging in an act described in Section 261, 286, 288a,  
23 or 289 of the Penal Code with a minor or an act described in  
24 Section 288 or 288.5 of the Penal Code regardless of whether the  
25 act occurred prior to or after the time the registration or license  
26 was issued by the board. An act described in this subdivision  
27 occurring prior to the effective date of this subdivision shall  
28 constitute unprofessional conduct and shall subject the licensee to  
29 refusal, suspension, or revocation of a license under this section.

30 (2) The Legislature hereby finds and declares that protection of  
31 the public, and in particular minors, from sexual misconduct by a  
32 licensee is a compelling governmental interest, and that the ability  
33 to suspend or revoke a license for sexual conduct with a minor  
34 occurring prior to the effective date of this section is equally  
35 important to protecting the public as is the ability to refuse a license  
36 for sexual conduct with a minor occurring prior to the effective  
37 date of this section.

38 (z) Engaging in any conduct that subverts or attempts to subvert  
39 any licensing examination or the administration of the examination  
40 as described in Section 123.

1     ~~SEC. 51.~~

2     *SEC. 59.* Section 4996.23 of the Business and Professions Code  
3 is amended to read:

4     4996.23. The experience required by subdivision (c) of Section  
5 4996.2 shall meet the following criteria:

6     (a) All persons registered with the board on and after January  
7 1, 2002, shall have at least 3,200 hours of post-master's degree  
8 supervised experience providing clinical social work services as  
9 permitted by Section 4996.9. At least 1,700 hours shall be gained  
10 under the supervision of a licensed clinical social worker. The  
11 remaining required supervised experience may be gained under  
12 the supervision of a licensed mental health professional acceptable  
13 to the board as defined by a regulation adopted by the board. This  
14 experience shall consist of the following:

15     (1) A minimum of 2,000 hours in clinical psychosocial  
16 diagnosis, assessment, and treatment, including psychotherapy or  
17 counseling.

18     (2) A maximum of 1,200 hours in client-centered advocacy,  
19 consultation, evaluation, and research.

20     (3) Of the 2,000 clinical hours required in paragraph (1), no less  
21 than 750 hours shall be face-to-face individual or group  
22 psychotherapy provided to clients in the context of clinical social  
23 work services.

24     (4) A minimum of two years of supervised experience is required  
25 to be obtained over a period of not less than 104 weeks and shall  
26 have been gained within the six years immediately preceding the  
27 date on which the application for licensure was filed.

28     (5) Experience shall not be credited for more than 40 hours in  
29 any week.

30     (b) "Supervision" means responsibility for, and control of, the  
31 quality of clinical social work services being provided.  
32 Consultation or peer discussion shall not be considered to be  
33 supervision.

34     (c) (1) Prior to the commencement of supervision, a supervisor  
35 shall comply with all requirements enumerated in Section 1870 of  
36 Title 16 of the California Code of Regulations and shall sign under  
37 penalty of perjury the "Responsibility Statement for Supervisors  
38 of an Associate Clinical Social Worker" form.

39     (2) Supervised experience shall include at least one hour of  
40 direct supervisor contact for a minimum of 104 weeks. For

1 purposes of this subdivision, “one hour of direct supervisor contact”  
2 means one hour per week of face-to-face contact on an individual  
3 basis or two hours of face-to-face contact in a group conducted  
4 within the same week as the hours claimed.

5 (3) An associate shall receive an average of at least one hour of  
6 direct supervisor contact for every week in which more than 10  
7 hours of face-to-face psychotherapy is performed in each setting  
8 in which experience is gained. No more than five hours of  
9 supervision, whether individual or group, shall be credited during  
10 any single week.

11 (4) Group supervision shall be provided in a group of not more  
12 than eight supervisees and shall be provided in segments lasting  
13 no less than one continuous hour.

14 (5) An associate clinical social worker working in a  
15 governmental entity, a school, college, or university, or an  
16 institution that is both a nonprofit and charitable institution may  
17 be credited with up to 30 hours of direct supervisor contact, via  
18 two-way, real-time videoconferencing. The supervisor shall be  
19 responsible for ensuring that client confidentiality is maintained.

20 (6) Of the 104 weeks of required supervision, 52 weeks shall  
21 be individual supervision, and of the 52 weeks of required  
22 individual supervision, not less than 13 weeks shall be supervised  
23 by a licensed clinical social worker.

24 (7) Notwithstanding paragraph (2), an associate clinical social  
25 worker working for a governmental entity, school, college, or  
26 university, or an institution that is both a nonprofit and charitable  
27 institution, may obtain the required weekly direct supervisor  
28 contact via live two-way videoconferencing. The supervisor shall  
29 be responsible for ensuring that client confidentiality is preserved.

30 (d) The supervisor and the associate shall develop a supervisory  
31 plan that describes the goals and objectives of supervision. These  
32 goals shall include the ongoing assessment of strengths and  
33 limitations and the assurance of practice in accordance with the  
34 laws and regulations. The associate shall submit to the board the  
35 initial original supervisory plan upon application for licensure.

36 (e) Experience shall only be gained in a setting that meets both  
37 of the following:

38 (1) Lawfully and regularly provides clinical social work, mental  
39 health counseling, or psychotherapy.

(2) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4996.9.

(f) Experience shall not be gained until the applicant has been registered as an associate clinical social worker.

(g) Employment in a private practice as defined in subdivision (h) shall not commence until the applicant has been registered as an associate clinical social worker.

(h) A private practice setting is a setting that is owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(i) If volunteering, the associate shall provide the board with a letter from his or her employer verifying his or her voluntary status upon application for licensure.

(j) If employed, the associate shall provide the board with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.

(k) While an associate may be either a paid employee or volunteer, employers are encouraged to provide fair remuneration to associates.

(l) An associate shall not do the following:

(1) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(2) Have any proprietary interest in the employer's business.

(3) Lease or rent space, pay for furnishings, equipment, or supplies, or in any other way pay for the obligations of his or her employer.

(m) An associate, whether employed or volunteering, may obtain supervision from a person not employed by the associate's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the associate's social work services.

(n) Notwithstanding any other provision of law, associates and applicants for examination shall receive a minimum of one hour of supervision per week for each setting in which he or she is working.



1     ~~SEC. 52.~~

2     *SEC. 60.* Section 4996.24 is added to the Business and  
3 Professions Code, to read:

4     4996.24. (a) A licensee in private practice who has satisfied  
5 the requirements of Section 1870 of Title 16 of the California Code  
6 of Regulations may supervise or employ, at any one time, no more  
7 than a total of two individuals registered as either a marriage and  
8 family therapist intern or associate clinical social worker in that  
9 private practice.

10    (b) A licensed clinical social workers' corporation may employ,  
11 at any one time, no more than a total of two individuals registered  
12 as either a marriage and family therapist intern or associate clinical  
13 social worker for each employee or shareholder who has satisfied  
14 the requirements of Section 1870 of Title 16 of the California Code  
15 of Regulations.

16    (c) In no event shall any corporation employ, at any one time,  
17 more than a total of 10 individuals registered as either a marriage  
18 and family therapist intern or associate clinical social worker. In  
19 no event shall any supervisor supervise, at any one time, more than  
20 a total of two individuals registered as either a marriage and family  
21 therapist intern or associate clinical social worker. Persons who  
22 supervise individuals registered as either a marriage and family  
23 therapist intern or associate clinical social worker shall be  
24 employed full time by the professional corporation and shall be  
25 actively engaged in performing professional services at and for  
26 the professional corporation. Employment and supervision within  
27 the licensed clinical social workers' corporation shall be subject  
28 to all laws and regulations governing experience and supervision  
29 gained in a private practice setting.

30     ~~SEC. 53.~~

31     *SEC. 61.* Section 4996.28 of the Business and Professions Code  
32 is amended to read:

33     4996.28. (a) Registration as an associate clinical social worker  
34 shall expire one year from the last day of the month during which  
35 it was issued. To renew a registration, the registrant shall, on or  
36 before the expiration date of the registration, complete all of the  
37 following actions:

38       (1) Apply for renewal on a form prescribed by the board.

39       (2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken by a regulatory or licensing board in this or any other state, subsequent to the last renewal of the registration.

(b) A registration as an associate clinical social worker may be renewed a maximum of five times. When no further renewals are possible, an applicant may apply for and obtain a new associate clinical social worker registration if the applicant meets all requirements for registration in effect at the time of his or her application for a new associate clinical social worker registration. An applicant issued a subsequent associate registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

~~SEC. 54.~~

*SEC. 62.* Section 4996.5 of the Business and Professions Code is amended to read:

4996.5. The board shall issue a license to each applicant meeting the requirements of this article, which license, so long as the renewal fees have been paid, licenses the holder to engage in the practice of clinical social work as defined in Section 4996.9, entitles the holder to use the title of licensed clinical social worker, and authorizes the holder to hold himself or herself out as qualified to perform any of the functions delineated by this chapter. The form and content of the license shall be determined by the director in accordance with Section 164.

~~SEC. 55.~~

*SEC. 63.* Section 4999.2 of the Business and Professions Code, as amended by Section 48 of Chapter 31 of the Statutes of 2008, is amended to read:

4999.2. (a) In order to obtain and maintain a registration, in-state or out-of-state telephone medical advice services shall comply with the requirements established by the department. Those requirements shall include, but shall not be limited to, all of the following:

(1) (A) Ensuring that all staff who provide medical advice services are appropriately licensed, certified, or registered as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist, dental hygienist, dental hygienist in alternative practice, or dental

1 hygienist in extended functions pursuant to Chapter 4 (commencing  
2 with Section 1600), as an occupational therapist pursuant to  
3 Chapter 5.6 (commencing with Section 2570), as a registered nurse  
4 pursuant to Chapter 6 (commencing with Section 2700), as a  
5 psychologist pursuant to Chapter 6.6 (commencing with Section  
6 2900), as a marriage and family therapist pursuant to Chapter 13  
7 (commencing with Section 4980), as a licensed clinical social  
8 worker pursuant to Chapter 14 (commencing with Section 4990.1),  
9 as an optometrist pursuant to Chapter 7 (commencing with Section  
10 3000), or as a chiropractor pursuant to the Chiropractic Initiative  
11 Act, and operating consistent with the laws governing their  
12 respective scopes of practice in the state within which they provide  
13 telephone medical advice services, except as provided in paragraph  
14 (2).

15 (B) Ensuring that all staff who provide telephone medical advice  
16 services from an out-of-state location are health care professionals,  
17 as identified in subparagraph (A), who are licensed, registered, or  
18 certified in the state within which they are providing the telephone  
19 medical advice services and are operating consistent with the laws  
20 governing their respective scopes of practice.

21 (2) Ensuring that the telephone medical advice provided is  
22 consistent with good professional practice.

23 (3) Maintaining records of telephone medical advice services,  
24 including records of complaints, provided to patients in California  
25 for a period of at least five years.

26 (4) Ensuring that no staff member uses a title or designation  
27 when speaking to an enrollee or subscriber that may cause a  
28 reasonable person to believe that the staff member is a licensed,  
29 certified, or registered professional described in subparagraph (A)  
30 of paragraph (1), unless the staff member is a licensed, certified,  
31 or registered professional.

32 (5) Complying with all directions and requests for information  
33 made by the department.

34 (b) To the extent permitted by Article VII of the California  
35 Constitution, the department may contract with a private nonprofit  
36 accrediting agency to evaluate the qualifications of applicants for  
37 registration pursuant to this chapter and to make recommendations  
38 to the department.

39 *SEC. 64. Section 5016 of the Business and Professions Code*  
40 *is amended to read:*

1     5016. A majority of the board shall constitute a quorum for  
2 the transaction of any business at any meeting of the ~~board for~~  
3 ~~which a notice of at least seven days is given by the president or~~  
4 ~~executive officer. Notice of meetings may be waived in writing~~  
5 ~~either before or after the meeting by unanimous consent of all~~  
6 ~~members.~~ *board. Notice of each meeting of the board shall be*  
7 *given in accordance with the Bagley-Keene Open Meeting Act*  
8 *(Article 9 (commencing with Section 11120) of Chapter 1 of Part*  
9 *1 of Division 3 of Title 2 of the Government Code).* The board shall  
10 meet at the call of the president and executive officer, but not less  
11 than twice each year. Any two members of the board may request  
12 the executive officer to call a special meeting, and the executive  
13 officer, upon receiving that notice, shall call a meeting pursuant  
14 to the procedure prescribed herein.

15     *SEC. 65. Section 5021 of the Business and Professions Code*  
16 *is amended to read:*

17     5021. The members of the ~~administrative committee and~~  
18 *qualifications committees* shall hold office for ~~one year~~ *two years*.

19     *SEC. 66. Section 5022 of the Business and Professions Code*  
20 *is amended to read:*

21     5022. The *qualifications* committee shall make  
22 recommendations and forward its report to the board for action on  
23 any matter on which it is authorized to act. ~~Any~~ *An* applicant for  
24 registration as a certified public accountant who is aggrieved by  
25 any action taken by the committee with respect to his or her  
26 qualifications may appeal to the board in accordance with rules or  
27 regulations prescribed by the board. The board on the appeal may  
28 give an oral or written examination as an aid in determining  
29 whether the applicant is qualified under the terms of this chapter.

30     *SEC. 67. Section 5023 of the Business and Professions Code*  
31 *is amended to read:*

32     5023. The board may establish ~~an advisory~~ *a qualifications*  
33 committee of its own certified public accountant members or other  
34 certified public accountants of the state in good standing, to  
35 perform ~~either of the following advisory duties:~~

36     (a) To examine *the qualifications of* all applicants for the license  
37 of certified public accountant.

38     (b) To recommend to the board applicants for the certified public  
39 accountant license who fulfill the requirements of this chapter.

1 SEC. 68. Section 5515.5 is added to the Business and  
2 Professions Code, to read:

3 5515.5. (a) Notwithstanding Section 5515, the following  
4 provisions shall apply:

5 (1) Of the architect members of the board appointed by the  
6 Governor whose terms commence on July 1, 2009, the term of two  
7 members shall expire on June 30, 2013, and the term of one  
8 member shall expire on June 30, 2015.

9 (2) Of the architect members of the board appointed by the  
10 Governor whose terms commence on July 1, 2010, one member's  
11 term shall expire on June 30, 2014, and one member's term shall  
12 expire on June 30, 2016.

13 (3) The term of the public member of the board appointed by  
14 the Governor whose term commences on July 1, 2010, shall expire  
15 on June 30, 2015.

16 (4) Of the public members of the board appointed by the  
17 Governor whose terms commence on July 1, 2012, one member's  
18 term shall expire on June 30, 2016, and one member's term shall  
19 expire on June 30, 2017.

20 (b) Except as provided in subdivision (a), this section shall not  
21 be construed to affect the application of Section 5515 to the terms  
22 of any current or future members of the board.

23 SEC. 69. Section 5651 of the Business and Professions Code  
24 is amended to read:

25 5651. (a) The board shall by means of examination, ascertain  
26 the professional qualifications of all applicants for licenses to  
27 practice landscape architecture in this state and shall issue a license  
28 to every person whom it finds to be qualified on payment of the  
29 initial license fee prescribed by this chapter.

30 (b) The examination shall consist of a written examination. The  
31 written examination may be waived by the board if the applicant  
32 meets both of the following requirements:

33 ~~(b) The examination shall consist of a written examination. The~~  
34 ~~written examination may be waived by the board if the applicant~~  
35 ~~(1) is~~

36 (1) Is currently licensed by a United States jurisdiction, Canadian  
37 province, or Puerto Rico and, has passed a written examination  
38 equivalent to that which is required in California at the time of  
39 application, and ~~(2) has passed the California supplemental~~  
40 ~~examination if, at the time of application, it is required of all~~

1 ~~California applicants has submitted proof of job experience~~  
2 ~~equivalent to that required of California applicants at the time of~~  
3 ~~application.~~

4 (2) ~~Has passed the California supplemental examination if, at~~  
5 ~~the time of application, it is required of all California applicants.~~

6 SEC. 70. ~~Section 6763.1 of the Business and Professions Code~~  
7 ~~is repealed.~~

8 ~~6763.1. An applicant to use the title “structural engineer” shall~~  
9 ~~have successfully passed a written examination that incorporates~~  
10 ~~a national examination for structural engineering by a nationally~~  
11 ~~recognized entity approved by the board, if available, and a~~  
12 ~~supplemental California specific examination. The California~~  
13 ~~specific examination shall test the applicant’s knowledge of state~~  
14 ~~laws, rules, and regulations, and of seismicity and structural~~  
15 ~~engineering unique to practice in this state. The board shall use~~  
16 ~~the national examination on or before December 31, 2004.~~

17 SEC. 71. ~~Section 7028.7 of the Business and Professions Code~~  
18 ~~is amended to read:~~

19 7028.7. ~~If (a) If~~ upon inspection or investigation, either upon  
20 complaint or otherwise, the registrar has probable cause to believe  
21 that a person is acting in the capacity of or engaging in the business  
22 of a contractor or salesperson within this state without having a  
23 license or registration in good standing to so act or engage, and  
24 the person is not otherwise exempted from this chapter, the registrar  
25 shall issue a citation to that person. ~~Within~~

26 (b) ~~Within~~ 72 hours of receiving notice that a public entity is  
27 intending to award, or has awarded, a contract to an unlicensed  
28 contractor, the registrar shall give written notice to the public entity  
29 that a citation may be issued if a contract is awarded to an  
30 unlicensed contractor. If after receiving the written notice from  
31 the registrar that the public entity has awarded or awards the  
32 contract to an unlicensed contractor, the registrar may issue a  
33 citation to the responsible officer or employee of the public entity  
34 as specified in Section 7028.15. ~~Each~~

35 (c) ~~Each~~ citation shall be in writing and shall describe with  
36 particularity the basis of the citation. Each citation shall contain  
37 an order of abatement and an assessment of a civil penalty in an  
38 amount not less than two hundred dollars (\$200) nor more than  
39 fifteen thousand dollars (\$15,000). ~~With~~

(d) With the approval of the Contractors' State License Board, the registrar shall prescribe procedures for the issuance of a citation under this section. The Contractors' State License Board shall adopt regulations covering the assessment of a civil penalty that shall give due consideration to the gravity of the violation, and any history of previous violations. ~~The~~

(e) The sanctions authorized under this section shall be separate from, and in addition to, all other remedies either civil or criminal.

SEC. 72. Section 7044 of the Business and Professions Code is amended to read:

7044. (a) This chapter does not apply to any of the following:

(a)

(1) ~~An owner of property, building or improving structures thereon, or appurtenances thereto, who does the work himself or herself or through who builds or improves a structure on his or her own employees with wages as their sole compensation, provided none of the structures, with or without the appurtenances thereto, are intended or offered for sale.~~ property, provided that both of the following conditions are met:

(A) None of the improvements are intended or offered for sale.

(B) The property owner personally performs all of the work or any work not performed by the owner is performed by the owner's employees with wages as their sole compensation.

(b)

(2) ~~An owner of property, building or improving structures thereon, or appurtenances thereto, who contracts for such a project with a subcontractor or subcontractors licensed pursuant to this chapter, who builds or improves a structure on his or her property, provided that both of the following conditions are met:~~

(A) The owner directly contracts with licensees who are duly licensed to contract for the work of the respective trades involved in completing the project.

~~However, this exemption shall apply to the construction of single-family residential structures only if four or fewer~~

(B) For projects involving single-family residential structures, no more than four of these structures are intended or offered for sale in a calendar year. ~~This limitation subparagraph~~ shall not apply if the owner of property contracts with a general contractor for the construction.

(e)

(3) A homeowner improving his or her principal place of residence or appurtenances thereto, provided that all of the following conditions exist:

(1)

(A) The work is performed prior to sale.

(2)

(B) The homeowner has actually resided in the residence for the 12 months prior to completion of the work.

(3)

(C) The homeowner has not availed himself or herself of the exemption in this ~~subdivision~~ *paragraph* on more than two structures more than once during any three-year period.

~~In~~

(b) *In all actions brought under this chapter, both of the following shall apply:*

(1) *Except as provided in paragraph (2), proof of the sale or offering for sale of any such a structure by or for the owner-builder within one year after completion of same the structure constitutes a rebuttable presumption affecting the burden of proof that such the structure was undertaken for purposes of sale. Except as otherwise provided in this section, proof of the sale or offering for sale of five or more structures by the owner-builder within one year after completion constitutes a conclusive presumption that the structures were undertaken for purposes of sale.*

~~In addition to all other remedies, any (1) licensed contractor, or association of contractors, (2) labor organization, (3) consumer affected by the violation, (4) district attorney, or (5) the Attorney General, shall be entitled to seek injunctive relief prohibiting any violation of this chapter by an owner-builder who is neither licensed nor exempted from licensure by this section or any other section according to the provisions specified in Section 7028.3 or Section 7028.4. The plaintiff in any such action shall not be required to prove irreparable injury and shall be entitled to attorneys' fees and all costs incurred in the prosecution of such action, provided the plaintiff is the prevailing party. The defendant in any such action, shall be entitled to attorneys' fees and all costs incurred in the defense against such action, provided the defendant is the prevailing party.~~

~~The registrar pursuant to Section 7090 may take disciplinary action as provided in this chapter against any person whenever the~~



1 ~~grounds or cause for disciplinary action arose upon any project~~  
2 ~~undertaken by him or her as a licensee licensed pursuant to this~~  
3 ~~chapter.~~

4 ~~Any person, firm, or corporation which has violated Section~~  
5 ~~7028 by engaging in contracting work as an owner-builder without~~  
6 ~~having a license or an exemption from licensure under this section~~  
7 ~~or any other section shall not be entitled to become a licensee under~~  
8 ~~this chapter for a period of one year following the violation.~~

9 *(2) Proof of the sale or offering for sale of five or more*  
10 *structures by the owner-builder within one year after completion*  
11 *constitutes a conclusive presumption that the structures were*  
12 *undertaken for purposes of sale.*

13 *SEC. 73. Section 7044.01 is added to the Business and*  
14 *Professions Code, to read:*

15 *7044.01. In addition to all other remedies, any (a) licensed*  
16 *contractor or association of contractors, (b) labor organization,*  
17 *(c) consumer affected by the violation, (d) district attorney, or (e)*  
18 *the Attorney General shall be entitled to seek injunctive relief*  
19 *prohibiting any violation of this chapter by an owner-builder who*  
20 *is neither licensed nor exempted from licensure under this chapter.*  
21 *The plaintiff in that action shall not be required to prove*  
22 *irreparable injury and shall be entitled to attorney's fees and all*  
23 *costs incurred in the prosecution of the action, provided the*  
24 *plaintiff is the prevailing party. The defendant in that action shall*  
25 *be entitled to attorney's fees and all costs incurred in the defense*  
26 *against the action, provided the defendant is the prevailing party.*

27 *SEC. 74. Section 7108.5 of the Business and Professions Code*  
28 *is repealed.*

29 ~~7108.5. A prime contractor or subcontractor shall pay to any~~  
30 ~~subcontractor, not later than 10 days of receipt of each progress~~  
31 ~~payment, unless otherwise agreed to in writing, the respective~~  
32 ~~amounts allowed the contractor on account of the work performed~~  
33 ~~by the subcontractors, to the extent of each subcontractor's interest~~  
34 ~~therein. In the event that there is a good faith dispute over all or~~  
35 ~~any portion of the amount due on a progress payment from the~~  
36 ~~prime contractor or subcontractor to a subcontractor, then the prime~~  
37 ~~contractor or subcontractor may withhold no more than 150 percent~~  
38 ~~of the disputed amount.~~

39 ~~Any violation of this section shall constitute a cause for~~  
40 ~~disciplinary action and shall subject the licensee to a penalty,~~

1 payable to the subcontractor, of 2 percent of the amount due per  
2 month for every month that payment is not made. In any action  
3 for the collection of funds wrongfully withheld, the prevailing  
4 party shall be entitled to his or her attorney's fees and costs.

5 The sanctions authorized under this section shall be separate  
6 from, and in addition to, all other remedies either civil,  
7 administrative, or criminal.

8 This section applies to all private works of improvement and to  
9 all public works of improvement, except where Section 10262 of  
10 the Public Contract Code applies.

11 *SEC. 75. Section 7108.5 is added to the Business and*  
12 *Professions Code, to read:*

13 *7108.5. (a) This section applies to all private works of*  
14 *improvement and to all public works of improvement, except where*  
15 *Section 10262 of the Public Contract Code applies.*

16 *(b) Except as provided in subdivision (c), a prime contractor*  
17 *or subcontractor shall pay to any subcontractor, not later than 10*  
18 *days of receipt of each progress payment, unless otherwise agreed*  
19 *to in writing, the respective amounts allowed the contractor on*  
20 *account of the work performed by the subcontractors, to the extent*  
21 *of each subcontractor's interest therein. A prime contractor or*  
22 *subcontractor that fails to comply with this subdivision shall be*  
23 *subject to a penalty, payable to the subcontractor, of 2 percent of*  
24 *the amount due per month for every month that payment is not*  
25 *made as required under this subdivision.*

26 *(c) If there is a good faith dispute over all or any portion of the*  
27 *amount due on a progress payment from the prime contractor or*  
28 *subcontractor to a subcontractor, the prime contractor or*  
29 *subcontractor may withhold no more than 150 percent of the*  
30 *disputed amount.*

31 *(d) A violation of this section shall constitute a cause for*  
32 *disciplinary action.*

33 *(e) In any action for the collection of funds wrongfully withheld,*  
34 *the prevailing party shall be entitled to his or her attorney's fees*  
35 *and costs.*

36 *(f) The sanctions authorized under this section shall be separate*  
37 *from, and in addition to, all other remedies, either civil,*  
38 *administrative, or criminal.*

39 *SEC. 76. Section 7159 of the Business and Professions Code*  
40 *is amended to read:*

1     7159. (a) (1) This section identifies the projects for which a  
2 home improvement contract is required, outlines the contract  
3 requirements, and lists the items that shall be included in the  
4 contract, or may be provided as an attachment.

5     (2) This section does not apply to service and repair contracts  
6 that are subject to Section 7159.10, if the contract for the applicable  
7 services complies with Sections 7159.10 to 7159.14, inclusive.

8     (3) This section does not apply to the sale, installation, and  
9 servicing of a fire alarm sold in conjunction with an alarm system,  
10 as defined in subdivision (n) of Section 7590.1, if all costs  
11 attributable to making the fire alarm system operable, including  
12 sale and installation costs, do not exceed five hundred dollars  
13 (\$500), and the licensee complies with the requirements set forth  
14 in Section 7159.9.

15     (4) This section does not apply to any costs associated with  
16 monitoring a burglar or fire alarm system.

17     (5) Failure by the licensee, his or her agent or salesperson, or  
18 by a person subject to be licensed under this chapter, to provide  
19 the specified information, notices, and disclosures in the contract,  
20 or to otherwise fail to comply with any provision of this section,  
21 is cause for discipline.

22     (b) For purposes of this section, “home improvement contract”  
23 means an agreement, whether oral or written, or contained in one  
24 or more documents, between a contractor and an owner or between  
25 a contractor and a tenant, regardless of the number of residence  
26 or dwelling units contained in the building in which the tenant  
27 resides, if the work is to be performed in, to, or upon the residence  
28 or dwelling unit of the tenant, for the performance of a home  
29 improvement, as defined in Section 7151, and includes all labor,  
30 services, and materials to be furnished and performed thereunder,  
31 if the aggregate contract price specified in one or more  
32 improvement contracts, including all labor, services, and materials  
33 to be furnished by the contractor, exceeds five hundred dollars  
34 (\$500). “Home improvement contract” also means an agreement,  
35 whether oral or written, or contained in one or more documents,  
36 between a salesperson, whether or not he or she is a home  
37 improvement salesperson, and an owner or a tenant, regardless of  
38 the number of residence or dwelling units contained in the building  
39 in which the tenant resides, which provides for the sale, installation,  
40 or furnishing of home improvement goods or services.

(c) In addition to the specific requirements listed under this section, every home improvement contract and any person subject to licensure under this chapter or his or her agent or salesperson shall comply with all of the following:

(1) The writing shall be legible.

(2) Any printed form shall be readable. Unless a larger typeface is specified in this article, text in any printed form shall be in at least 10-point typeface and the headings shall be in at least 10-point boldface type.

(3) (A) Before any work is started, the contractor shall give the buyer a copy of the contract signed and dated by both the contractor and the buyer. The buyer's receipt of the copy of the contract initiates the buyer's rights to cancel the contract pursuant to Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

(B) The contract shall contain on the first page, in a typeface no smaller than that generally used in the body of the document, both of the following:

(i) The date the buyer signed the contract.

(ii) The name and address of the contractor to which the applicable "Notice of Cancellation" is to be mailed, immediately preceded by a statement advising the buyer that the "Notice of Cancellation" may be sent to the contractor at the address noted on the contract.

(4) ~~A~~ *The contract shall include a statement that, upon satisfactory payment being made for any portion of the work performed, the contractor, prior to any further payment being made, shall furnish to the person contracting for the home improvement or swimming pool work a full and unconditional release from any potential lien claimant claim or mechanic's lien authorized pursuant to Section-3114 3110 of the Civil Code for that portion of the work for which payment has been made.*

(5) A change-order form for changes or extra work shall be incorporated into the contract and shall become part of the contract only if it is in writing and signed by the parties prior to the commencement of any work covered by a change order.

(6) The contract shall contain, in close proximity to the signatures of the owner and contractor, a notice stating that the owner or tenant has the right to require the contractor to have a performance and payment bond.

1 (7) If the contract provides for a contractor to furnish joint  
2 control, the contractor shall not have any financial or other interest  
3 in the joint control.

4 (8) The provisions of this section are not exclusive and do not  
5 relieve the contractor from compliance with any other applicable  
6 provision of law.

7 (d) A home improvement contract and any changes to the  
8 contract shall be in writing and signed by the parties to the contract  
9 prior to the commencement of work covered by the contract or an  
10 applicable change order and, except as provided in paragraph (8)  
11 of subdivision (a) of Section 7159.5, shall include or comply with  
12 all of the following:

13 (1) The name, business address, and license number of the  
14 contractor.

15 (2) If applicable, the name and registration number of the home  
16 improvement salesperson that solicited or negotiated the contract.

17 (3) The following heading on the contract form that identifies  
18 the type of contract in at least 10-point boldface type: "Home  
19 Improvement."

20 (4) The following statement in at least 12-point boldface type:  
21 "You are entitled to a completely filled in copy of this agreement,  
22 signed by both you and the contractor, before any work may be  
23 started."

24 (5) The heading: "Contract Price," followed by the amount of  
25 the contract in dollars and cents.

26 (6) If a finance charge will be charged, the heading: "Finance  
27 Charge," followed by the amount in dollars and cents. The finance  
28 charge is to be set out separately from the contract amount.

29 (7) The heading: "Description of the Project and Description  
30 of the Significant Materials to be Used and Equipment to be  
31 Installed," followed by a description of the project and a description  
32 of the significant materials to be used and equipment to be installed.  
33 For swimming pools, the project description required under this  
34 paragraph also shall include a plan and scale drawing showing the  
35 shape, size, dimensions, and the construction and equipment  
36 specifications.

37 (8) If a downpayment will be charged, the details of the  
38 downpayment shall be expressed in substantially the following  
39 form, and shall include the text of the notice as specified in  
40 subparagraph (C):

1 (A) The heading: “Downpayment.”

2 (B) A space where the actual downpayment appears.

3 (C) The following statement in at least 12-point boldface type:

4  
5 “THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10  
6 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS  
7 LESS.”

8  
9 (9) If payments, other than the downpayment, are to be made  
10 before the project is completed, the details of these payments,  
11 known as progress payments, shall be expressed in substantially  
12 the following form, and shall include the text of the statement as  
13 specified in subparagraph (C):

14 (A) A schedule of progress payments shall be preceded by the  
15 heading: “Schedule of Progress Payments.”

16 (B) Each progress payment shall be stated in dollars and cents  
17 and specifically reference the amount of work or services to be  
18 performed and materials and equipment to be supplied.

19 (C) The section of the contract reserved for the progress  
20 payments shall include the following statement in at least 12-point  
21 boldface type:

22  
23 “The schedule of progress payments must specifically describe  
24 each phase of work, including the type and amount of work or  
25 services scheduled to be supplied in each phase, along with the  
26 amount of each proposed progress payment. IT IS AGAINST THE  
27 LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR  
28 WORK NOT YET COMPLETED, OR FOR MATERIALS NOT  
29 YET DELIVERED. HOWEVER, A CONTRACTOR MAY  
30 REQUIRE A DOWNPAYMENT.”

31  
32 (10) The contract shall address the commencement of work to  
33 be performed in substantially the following form:

34 (A) A statement that describes what constitutes substantial  
35 commencement of work under the contract.

36 (B) The heading: “Approximate Start Date.”

37 (C) The approximate date on which work will be commenced.

38 (11) The estimated completion date of the work shall be  
39 referenced in the contract in substantially the following form:

40 (A) The heading: “Approximate Completion Date.”

1 (B) The approximate date of completion.

2 (12) If applicable, the heading: “List of Documents to be  
3 Incorporated into the Contract,” followed by the list of documents  
4 incorporated into the contract.

5 (13) The heading: “Note about Extra Work and Change Orders,”  
6 followed by the following statement:

7  
8 “Extra Work and Change Orders become part of the contract  
9 once the order is prepared in writing and signed by the parties prior  
10 to the commencement of work covered by the new change order.  
11 The order must describe the scope of the extra work or change,  
12 the cost to be added or subtracted from the contract, and the effect  
13 the order will have on the schedule of progress payments.”

14  
15 (e) Except as provided in paragraph (8) of subdivision (a) of  
16 Section 7159.5, all of the following notices shall be provided to  
17 the owner as part of the contract form as specified or, if otherwise  
18 authorized under this subdivision, may be provided as an  
19 attachment to the contract:

20 (1) A notice concerning commercial general liability insurance.  
21 This notice may be provided as an attachment to the contract if  
22 the contract includes the following statement: “A notice concerning  
23 commercial general liability insurance is attached to this contract.”  
24 The notice shall include the heading “Commercial General Liability  
25 Insurance (CGL),” followed by whichever of the following  
26 statements is both relevant and correct:

27 (A) “(The name on the license or ‘This contractor’) does not  
28 carry commercial general liability insurance.”

29 (B) “(The name on the license or ‘This contractor’) carries  
30 commercial general liability insurance written by (the insurance  
31 company). You may call (the insurance company) at \_\_\_\_\_  
32 to check the contractor’s insurance coverage.”

33 (C) “(The name on the license or ‘This contractor’) is  
34 self-insured.”

35 (2) A notice concerning workers’ compensation insurance. This  
36 notice may be provided as an attachment to the contract if the  
37 contract includes the statement: “A notice concerning workers’  
38 compensation insurance is attached to this contract.” The notice  
39 shall include the heading “Workers’ Compensation Insurance”  
40 followed by whichever of the following statements is correct:

1 (A) “(The name on the license or ‘This contractor’) has no  
2 employees and is exempt from workers’ compensation  
3 requirements.”

4 (B) “(The name on the license or ‘This contractor’) carries  
5 workers’ compensation insurance for all employees.”

6 (3) A notice that provides the buyer with the following  
7 information about the performance of extra or change-order work:

8 (A) A statement that the buyer may not require a contractor to  
9 perform extra or change-order work without providing written  
10 authorization prior to the commencement of work covered by the  
11 new change order.

12 (B) A statement informing the buyer that extra work or a change  
13 order is not enforceable against a buyer unless the change order  
14 also identifies all of the following in writing prior to the  
15 commencement of work covered by the new change order:

16 (i) The scope of work encompassed by the order.

17 (ii) The amount to be added or subtracted from the contract.

18 (iii) The effect the order will make in the progress payments or  
19 the completion date.

20 (C) A statement informing the buyer that the contractor’s failure  
21 to comply with the requirements of this paragraph does not  
22 preclude the recovery of compensation for work performed based  
23 upon legal or equitable remedies designed to prevent unjust  
24 enrichment.

25 (4) A notice with the heading “Mechanics’ Lien Warning”  
26 written as follows:

27 “MECHANICS’ LIEN WARNING:  
28

29 Anyone who helps improve your property, but who is not paid,  
30 may record what is called a mechanics’ lien on your property. A  
31 mechanics’ lien is a claim, like a mortgage or home equity loan,  
32 made against your property and recorded with the county recorder.

33 Even if you pay your contractor in full, unpaid subcontractors,  
34 suppliers, and laborers who helped to improve your property may  
35 record mechanics’ liens and sue you in court to foreclose the lien.  
36 If a court finds the lien is valid, you could be forced to pay twice  
37 or have a court officer sell your home to pay the lien. Liens can  
38 also affect your credit.

39 To preserve their right to record a lien, each subcontractor and  
40 material supplier must provide you with a document called a



1 '20-day Preliminary Notice.' This notice is not a lien. The purpose  
2 of the notice is to let you know that the person who sends you the  
3 notice has the right to record a lien on your property if he or she  
4 is not paid.

5 BE CAREFUL. The Preliminary Notice can be sent up to 20  
6 days after the subcontractor starts work or the supplier provides  
7 material. This can be a big problem if you pay your contractor  
8 before you have received the Preliminary Notices.

9 You will not get Preliminary Notices from your prime contractor  
10 or from laborers who work on your project. The law assumes that  
11 you already know they are improving your property.

12 PROTECT YOURSELF FROM LIENS. You can protect  
13 yourself from liens by getting a list from your contractor of all the  
14 subcontractors and material suppliers that work on your project.  
15 Find out from your contractor when these subcontractors started  
16 work and when these suppliers delivered goods or materials. Then  
17 wait 20 days, paying attention to the Preliminary Notices you  
18 receive.

19 PAY WITH JOINT CHECKS. One way to protect yourself is  
20 to pay with a joint check. When your contractor tells you it is time  
21 to pay for the work of a subcontractor or supplier who has provided  
22 you with a Preliminary Notice, write a joint check payable to both  
23 the contractor and the subcontractor or material supplier.

24 For other ways to prevent liens, visit CSLB's Internet Web site  
25 at [www.cslb.ca.gov](http://www.cslb.ca.gov) or call CSLB at 800-321-CSLB (2752).

26 REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING  
27 A LIEN PLACED ON YOUR HOME. This can mean that you  
28 may have to pay twice, or face the forced sale of your home to pay  
29 what you owe."  
30

31 (5) The following notice shall be provided in at least 12-point  
32 typeface:

33  
34 "Information about the Contractors' State License Board (CSLB):  
35 CSLB is the state consumer protection agency that licenses and  
36 regulates construction contractors.

37 Contact CSLB for information about the licensed contractor you  
38 are considering, including information about disclosable  
39 complaints, disciplinary actions, and civil judgments that are  
40 reported to CSLB.

1 Use only licensed contractors. If you file a complaint against a  
2 licensed contractor within the legal deadline (usually four years),  
3 CSLB has authority to investigate the complaint. If you use an  
4 unlicensed contractor, CSLB may not be able to help you resolve  
5 your complaint. Your only remedy may be in civil court, and you  
6 may be liable for damages arising out of any injuries to the  
7 unlicensed contractor or the unlicensed contractor's employees.

8 For more information:

9 Visit CSLB's Internet Web site at [www.cslb.ca.gov](http://www.cslb.ca.gov)

10 Call CSLB at 800-321-CSLB (2752)

11 Write CSLB at P.O. Box 26000, Sacramento, CA 95826."

12  
13 (6) (A) The notice set forth in subparagraph (B) and entitled  
14 "Three-Day Right to Cancel," shall be provided to the buyer unless  
15 the contract is:

16 (i) Negotiated at the contractor's place of business.

17 (ii) Subject to the "Seven-Day Right to Cancel," as set forth in  
18 paragraph (7).

19 (iii) Subject to licensure under the Alarm Company Act (Chapter  
20 11.6 (commencing with Section 7590)), provided the alarm  
21 company licensee complies with Sections 1689.5, 1689.6, and  
22 1689.7 of the Civil Code, as applicable.

23 (B) "Three-Day Right to Cancel

24 You, the buyer, have the right to cancel this contract within three  
25 business days. You may cancel by e-mailing, mailing, faxing, or  
26 delivering a written notice to the contractor at the contractor's  
27 place of business by midnight of the third business day after you  
28 received a signed and dated copy of the contract that includes this  
29 notice. Include your name, your address, and the date you received  
30 the signed copy of the contract and this notice.

31 If you cancel, the contractor must return to you anything you  
32 paid within 10 days of receiving the notice of cancellation. For  
33 your part, you must make available to the contractor at your  
34 residence, in substantially as good condition as you received them,  
35 goods delivered to you under this contract or sale. Or, you may,  
36 if you wish, comply with the contractor's instructions on how to  
37 return the goods at the contractor's expense and risk. If you do  
38 make the goods available to the contractor and the contractor does  
39 not pick them up within 20 days of the date of your notice of  
40 cancellation, you may keep them without any further obligation.

1 If you fail to make the goods available to the contractor, or if you  
2 agree to return the goods to the contractor and fail to do so, then  
3 you remain liable for performance of all obligations under the  
4 contract.”

5 (C) The “Three-Day Right to Cancel” notice required by this  
6 paragraph shall comply with all of the following:

7 (i) The text of the notice is at least 12-point boldface type.

8 (ii) The notice is in immediate proximity to a space reserved  
9 for the owner’s signature.

10 (iii) The owner acknowledges receipt of the notice by signing  
11 and dating the notice form in the signature space.

12 (iv) The notice is written in the same language, e.g., Spanish,  
13 as that principally used in any oral sales presentation.

14 (v) The notice may be attached to the contract if the contract  
15 includes, in at least 12-point boldface type, a checkbox with the  
16 following statement: “The law requires that the contractor give  
17 you a notice explaining your right to cancel. Initial the checkbox  
18 if the contractor has given you a ‘Notice of the Three-Day Right  
19 to Cancel.’ ”

20 (vi) The notice shall be accompanied by a completed form in  
21 duplicate, captioned “Notice of Cancellation,” which also shall be  
22 attached to the agreement or offer to purchase and be easily  
23 detachable, and which shall contain the following statement written  
24 in the same language, e.g., Spanish, as used in the contract:

25  
26 “Notice of Cancellation”

27 /enter date of transaction/  
28

29 \_\_\_\_\_  
30 (Date)  
31

32 “You may cancel this transaction, without any penalty or  
33 obligation, within three business days from the above date.

34 If you cancel, any property traded in, any payments made by  
35 you under the contract or sale, and any negotiable instrument  
36 executed by you will be returned within 10 days following receipt  
37 by the seller of your cancellation notice, and any security interest  
38 arising out of the transaction will be canceled.

39 If you cancel, you must make available to the seller at your  
40 residence, in substantially as good condition as when received,

1 any goods delivered to you under this contract or sale, or you may,  
 2 if you wish, comply with the instructions of the seller regarding  
 3 the return shipment of the goods at the seller's expense and risk.

4 If you do make the goods available to the seller and the seller  
 5 does not pick them up within 20 days of the date of your notice of  
 6 cancellation, you may retain or dispose of the goods without any  
 7 further obligation. If you fail to make the goods available to the  
 8 seller, or if you agree to return the goods to the seller and fail to  
 9 do so, then you remain liable for performance of all obligations  
 10 under the contract.”

11  
 12  
 13 To cancel this transaction, mail or deliver a signed and dated copy of this  
 14 cancellation notice, or any other written notice, or send a telegram

15 to \_\_\_\_\_,

16 /name of seller/

17 at \_\_\_\_\_

18 /address of seller's place of business/

19 not later than midnight of \_\_\_\_\_.

20 (Date)

21 I hereby cancel this transaction. \_\_\_\_\_

22 (Date)

23 \_\_\_\_\_  
 24 (Buyer's signature)  
 25

26 (7) (A) The following notice entitled “Seven-Day Right to  
 27 Cancel” shall be provided to the buyer for any contract that is  
 28 written for the repair or restoration of residential premises damaged  
 29 by any sudden or catastrophic event for which a state of emergency  
 30 has been declared by the President of the United States or the  
 31 Governor, or for which a local emergency has been declared by  
 32 the executive officer or governing body of any city, county, or city  
 33 and county:

34 “Seven-Day Right to Cancel

35 You, the buyer, have the right to cancel this contract within seven  
 36 business days. You may cancel by e-mailing, mailing, faxing, or  
 37 delivering a written notice to the contractor at the contractor's  
 38 place of business by midnight of the seventh business day after  
 39 you received a signed and dated copy of the contract that includes

1 this notice. Include your name, your address, and the date you  
2 received the signed copy of the contract and this notice.

3 If you cancel, the contractor must return to you anything you  
4 paid within 10 days of receiving the notice of cancellation. For  
5 your part, you must make available to the contractor at your  
6 residence, in substantially as good condition as you received them,  
7 goods delivered to you under this contract or sale. Or, you may,  
8 if you wish, comply with the contractor's instructions on how to  
9 return the goods at the contractor's expense and risk. If you do  
10 make the goods available to the contractor and the contractor does  
11 not pick them up within 20 days of the date of your notice of  
12 cancellation, you may keep them without any further obligation.  
13 If you fail to make the goods available to the contractor, or if you  
14 agree to return the goods to the contractor and fail to do so, then  
15 you remain liable for performance of all obligations under the  
16 contract."

17 (B) The "Seven-Day Right to Cancel" notice required by this  
18 subdivision shall comply with all of the following:

- 19 (i) The text of the notice is at least 12-point boldface type.  
20 (ii) The notice is in immediate proximity to a space reserved  
21 for the owner's signature.  
22 (iii) The owner acknowledges receipt of the notice by signing  
23 and dating the notice form in the signature space.  
24 (iv) The notice is written in the same language, e.g., Spanish,  
25 as that principally used in any oral sales presentation.  
26 (v) The notice may be attached to the contract if the contract  
27 includes, in at least 12-point boldface type, a checkbox with the  
28 following statement: "The law requires that the contractor give  
29 you a notice explaining your right to cancel. Initial the checkbox  
30 if the contractor has given you a 'Notice of the Seven-Day Right  
31 to Cancel.'"  
32 (vi) The notice shall be accompanied by a completed form in  
33 duplicate, captioned "Notice of Cancellation," which shall also be  
34 attached to the agreement or offer to purchase and be easily  
35 detachable, and which shall contain the following statement written  
36 in the same language, e.g., Spanish, as used in the contract:

37  
38 "Notice of Cancellation"

39 /enter date of transaction/  
40 \_\_\_\_\_

(Date)

“You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller’s expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.”

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to \_\_\_\_\_,

/name of seller/

at \_\_\_\_\_  
/address of seller’s place of business/

not later than midnight of \_\_\_\_\_.

(Date)

I hereby cancel this transaction. \_\_\_\_\_

(Date)

\_\_\_\_\_  
(Buyer’s signature)

*SEC. 77. Section 7159.5 of the Business and Professions Code is amended to read:*

1     7159.5. This section applies to all home improvement contracts,  
2 as defined in Section 7151.2, between an owner or tenant and a  
3 contractor, whether a general contractor or a specialty contractor,  
4 who is licensed or subject to be licensed pursuant to this chapter  
5 with regard to the transaction.

6     (a) Failure by the licensee or a person subject to be licensed  
7 under this chapter, or by his or her agent or salesperson, to comply  
8 with the following provisions is cause for discipline:

9     (1) The contract shall be in writing and shall include the agreed  
10 contract amount in dollars and cents. The contract amount shall  
11 include the entire cost of the contract, including profit, labor, and  
12 materials, but excluding finance charges.

13     (2) If there is a separate finance charge between the contractor  
14 and the person contracting for home improvement, the finance  
15 charge shall be set out separately from the contract amount.

16     (3) If a downpayment will be charged, the downpayment may  
17 not exceed one thousand dollars (\$1,000) or 10 percent of the  
18 contract amount, whichever is less.

19     (4) If, in addition to a downpayment, the contract provides for  
20 payments to be made prior to completion of the work, the contract  
21 shall include a schedule of payments in dollars and cents  
22 specifically referencing the amount of work or services to be  
23 performed and any materials and equipment to be supplied.

24     (5) Except for a downpayment, the contractor may neither  
25 request nor accept payment that exceeds the value of the work  
26 performed or material delivered.

27     (6) Upon any payment by the person contracting for home  
28 improvement, and prior to any further payment being made, the  
29 contractor shall, if requested, obtain and furnish to the person a  
30 full and unconditional release from any potential lien claimant  
31 claim or mechanic's lien *authorized* pursuant to Section ~~3114~~ 3110  
32 of the Civil Code for any portion of the work for which payment  
33 has been made. The person contracting for home improvement  
34 may withhold all further payments until these releases are  
35 furnished.

36     (7) If the contract provides for a payment of a salesperson's  
37 commission out of the contract price, that payment shall be made  
38 on a pro rata basis in proportion to the schedule of payments made  
39 to the contractor by the disbursing party in accordance with  
40 paragraph (4).

(8) A contractor furnishing a performance and payment bond, lien and completion bond, or a bond equivalent or joint control approved by the registrar covering full performance and payment is exempt from paragraphs (3), (4), and (5), and need not include, as part of the contract, the statement regarding the downpayment specified in subparagraph (C) of paragraph (8) of subdivision (d) of Section 7159, the details and statement regarding progress payments specified in paragraph (9) of subdivision (d) of Section 7159, or the Mechanics' Lien Warning specified in paragraph (4) of subdivision (e) of Section 7159. A contractor furnishing these bonds, bond equivalents, or a joint control approved by the registrar may accept payment prior to completion. If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.

(b) A violation of paragraph (1), (3), or (5) of subdivision (a) by a licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(1) An indictment or information against a person who is not licensed but who is required to be licensed under this chapter shall be brought, or a criminal complaint filed, for a violation of this section, in accordance with paragraph (4) of subdivision (d) of Section 802 of the Penal Code, within four years from the date of the contract or, if the contract is not reduced to writing, from the date the buyer makes the first payment to the contractor.

(2) An indictment or information against a person who is licensed under this chapter shall be brought, or a criminal complaint filed, for a violation of this section, in accordance with paragraph (2) of subdivision (d) of Section 802 of the Penal Code, within two years from the date of the contract or, if the contract is not reduced to writing, from the date the buyer makes the first payment to the contractor.

(3) The limitations on actions in this subdivision shall not apply to any administrative action filed against a licensed contractor.

(c) Any person who violates this section as part of a plan or scheme to defraud an owner or tenant of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to



the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based on the person's ability to pay, as defined in subdivision (e) of Section 1203.1b of the Penal Code. In addition to full restitution, and imprisonment authorized by this section, the court may impose a fine of not less than five hundred dollars (\$500) nor more than twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States.

*SEC. 78. Section 7159.14 of the Business and Professions Code is amended to read:*

7159.14. (a) This section applies to a service and repair contract as defined in Section 7159.10. A violation of this section by a licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, is cause for discipline.

(1) The contract may not exceed seven hundred fifty dollars (\$750).

(2) The contract shall be in writing and shall state the agreed contract amount, which may be stated as either a fixed contract amount in dollars and cents or, if a time and materials formula is used, as an estimated contract amount in dollars and cents.

(3) The contract amount shall include the entire cost of the contract including profit, labor, and materials, but excluding finance charges.

(4) The actual contract amount of a time and materials contract may not exceed the estimated contract amount without written authorization from the buyer.

(5) The prospective buyer must have initiated contact with the contractor to request work.

(6) The contractor may not sell the buyer goods or services beyond those reasonably necessary to take care of the particular problem that caused the buyer to contact the contractor.

(7) No payment may be due before the project is completed.

(8) A service and repair contractor may charge only one service charge. For purposes of this chapter, a service charge includes such charges as a service or trip charge, or an inspection fee.

(9) A service and repair contractor charging a service charge must disclose in all advertisements that there is a service charge and, when the customer initiates the call for service, must disclose the amount of the service charge.

(10) The service and repair contractor must offer to the customer any parts that were replaced.

(11) Upon any payment by the buyer, the contractor shall, if requested, obtain and furnish to the buyer a full and unconditional release from any potential lien claimant claim or mechanic's lien *authorized* pursuant to ~~Section 3114~~ 3110 of the Civil Code for any portion of the work for which payment has been made.

(b) A violation of paragraph (1), (2), (3), (4), (5), (6), or (8) of subdivision (a) by a licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(1) An indictment or information against a person who is not licensed but who is required to be licensed under this chapter shall be brought, or a criminal complaint filed, for a violation of this section, in accordance with paragraph (4) of subdivision (d) of Section 802 of the Penal Code, within four years from the date of the contract or, if the contract is not reduced to writing, from the date the buyer makes the first payment to the contractor.

(2) An indictment or information against a person who is licensed under this chapter shall be brought, or a criminal complaint filed, for a violation of this section, in accordance with paragraph (2) of subdivision (d) of Section 802 of the Penal Code, within two years from the date of the contract or, if the contract is not reduced to writing, from the date the buyer makes the first payment to the contractor.

(3) The limitations on actions in this subdivision shall not apply to any administrative action filed against a licensed contractor.

(c) Any person who violates this section as part of a plan or scheme to defraud an owner or tenant of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based

on the person's ability to pay, as defined in subdivision (e) of Section 1203.1b of the Penal Code. In addition to full restitution, and imprisonment authorized by this section, the court may impose a fine of not less than five hundred dollars (\$500) nor more than twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States.

*SEC. 79. Section 7303.2 of the Business and Professions Code is amended to read:*

7303.2. The board shall conduct the following studies and reviews, and shall report its findings and recommendations to the department and the Joint Committee on Boards, Commissions, and Consumer Protection no later than September 1, 2005:

(a) The board, pursuant to Section 139 and in conjunction with the Office of *Professional Examination-Resources Services* of the department, shall review the 1600 hour training requirement for cosmetologists.

(b) The board, in conjunction with the Office of *Professional Examination-Resources Services* of the department, shall evaluate the equivalency of the national exam.

(c) The board shall conduct a study to assess the costs and benefits associated with requiring all applicants to submit fingerprint cards for background investigations.

(d) The board, in coordination with the Department of Industrial Relations, shall review all components of the apprenticeship program, including, but not limited to, the following:

- (1) Apprenticeship curriculum requirements.
- (2) The standards for the preapprentice trainers, program sponsors, trainers, and placement establishments. The board shall pay particular attention to ways to eliminate duplicative regulations.
- (e) The board shall review all components of the externship program. In addition to structural changes, the board shall address the following:

- (1) Whether the program should be eliminated.
- (2) Whether the program should be available to all students, not just cosmetology students attending private schools.
- (3) Whether the students should be paid.

(f) The board shall assess the costs and benefits associated with same day licensing. If the board determines that the benefits of same day licensing outweigh the costs, the board shall immediately plan and implement safety measures to protect site staff and undispersed licenses.

(g) The board, in conjunction with the Office of *Professional Examination-Resources Services* of the department, shall assess the validity of aggregate scoring for board applicants.

*SEC. 80. Section 7500.1 of the Business and Professions Code is amended to read:*

7500.1. The following terms as used in this chapter have the meaning expressed in this ~~section~~ *section*:

(a) “Advertisement” means any written or printed communication, including a directory listing, except a free telephone directory listing that does not allow space for a license number.

(b) “Assignment” means a written authorization by the legal owner, lienholder, lessor or lessee, or the agent of any of them, to skip trace, locate, or repossess or to collect money payment in lieu of repossession of; any collateral, including, but not limited to, collateral registered under the Vehicle Code that is subject to a security agreement that contains a repossession clause. “Assignment” also means a written authorization by an employer to recover any collateral entrusted to an employee or former employee if the possessor is wrongfully in possession of the collateral. ~~A photocopy, facsimile copy, or electronic photocopy of an assignment, facsimile copy of an assignment, or electronic assignment shall have the same force and effect as an original written assignment.~~

(c) “Bureau” means the Bureau of Security and Investigative Services.

(d) “Chief” means the Chief of the Bureau of Security and Investigative Services.

(e) “Collateral” means any *specific* vehicle, *trailer*, boat, recreational vehicle, motor home, appliance, or other property that is subject to a security agreement.

(f) “Combustibles” means any substance or article that is capable of undergoing combustion or catching fire, or that is flammable, if retained.

1 (g) “Dangerous drugs” means any controlled substances as  
2 defined in Chapter 2 (commencing with Section 11053) of Division  
3 10 of the Health and Safety Code.

4 (h) “Deadly weapon” means and includes any instrument or  
5 weapon of the kind commonly known as a blackjack, slungshot,  
6 billy, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or  
7 revolver, or any other firearm, any knife having a blade longer  
8 than five inches, any razor with an unguarded blade, and any metal  
9 pipe or bar used or intended to be used as a club.

10 (i) “Debtor” means any person obligated under a security  
11 agreement.

12 (j) “Department” means the Department of Consumer Affairs.

13 (k) “Director” means the Director of Consumer Affairs.

14 (l) “Health hazard” means any personal effects which if retained  
15 would produce an unsanitary or unhealthful condition.

16 (m) “Legal owner” means a person holding a security interest  
17 in any collateral that is subject to a security agreement, a lien  
18 against any collateral, or an interest in any collateral that is subject  
19 to a lease agreement.

20 (n) “Licensee” means an individual, partnership, limited liability  
21 company, or corporation licensed under this chapter as a  
22 repossession agency.

23 (o) “Multiple licensee” means a repossession agency holding  
24 more than one repossession license under this chapter, with one  
25 fictitious trade style and ownership, conducting repossession  
26 business from additional licensed locations other than the location  
27 shown on the original license.

28 (p) “Person” includes any individual, partnership, limited  
29 liability company, or corporation.

30 (q) “Personal effects” means any property that is not the property  
31 of the legal owner.

32 (r) “Private building” means and includes any dwelling,  
33 outbuilding, or other enclosed structure.

34 (s) “Qualified certificate holder” or “qualified manager” is a  
35 person who possesses a valid qualification certificate in accordance  
36 with the provisions of Article 5 (commencing with Section 7504)  
37 and is in active control or management of, and who is a director  
38 of, the licensee’s place of business.

39 (t) “Registrant” means a person registered under this chapter.

1 (u) “Secured area” means and includes any fenced and locked  
2 area.

3 (v) “Security agreement” means an obligation, pledge, mortgage,  
4 chattel mortgage, lease agreement, deposit, or lien, given by a  
5 debtor as security for payment or performance of his or her debt,  
6 by furnishing the creditor with a recourse to be used in case of  
7 failure in the principal obligation. “Security agreement” also  
8 includes a bailment where an employer-employee relationship  
9 exists or existed between the bailor and the bailee.

10 (w) “Services” means any duty or labor to be rendered by one  
11 person for another.

12 (x) “Violent act” means any act that results in bodily harm or  
13 injury to any party involved.

14 (y) The amendments made to this section during the 2005–06  
15 Regular Session shall not be deemed to exempt any person from  
16 the provisions of this chapter.

17 *SEC. 81. Section 7505.5 of the Business and Professions Code*  
18 *is amended to read:*

19 7505.5. The person deemed to be actively in charge of an office  
20 shall be the holder of a qualification certificate and the certificate,  
21 together with the current renewal certificate, shall be prominently  
22 displayed below the repossession agency’s license. The person  
23 shall be in charge of ~~only one licensed location~~ *not more than two*  
24 *licensed locations*. The person shall share equally with the licensee  
25 the responsibility for the conduct of the business and the personnel  
26 of the licensed agency or agencies, if more than one agency is  
27 licensed at that location. This section shall not apply to any licensee  
28 who notifies the bureau in writing that the licensee is not  
29 conducting any business, but wishes to maintain a current license  
30 status with the bureau. When the licensee resumes conducting  
31 business, the licensee shall so inform the bureau in writing within  
32 30 days.

33 *SEC. 82. Section 7507.9 of the Business and Professions Code*  
34 *is amended to read:*

35 7507.9. Personal effects shall be removed from the collateral,  
36 including any personal effect that is mounted but detachable from  
37 the collateral by a release mechanism. A complete and accurate  
38 inventory of the personal effects shall be made, and the personal  
39 effects shall be labeled and stored by the licensee for a minimum  
40 of 60 days in a secure manner, except those personal effects

1 removed by or in the presence of the debtor or the party in  
2 possession of the collateral at the time of the repossession. If the  
3 licensee or the licensee's agent cannot determine whether the  
4 property attached to the collateral is a personal effect or a part of  
5 the collateral, then that fact shall be noted on the inventory and  
6 the licensee or agent shall not be obligated to remove the item  
7 from the collateral, unless the item can be removed without the  
8 use of tools, in which case it shall be removed and inventoried.  
9 The licensee or the licensee's agent shall notify the debtor that if  
10 the debtor takes the position that an item is a personal effect, then  
11 the debtor shall contact the legal owner to resolve the issue.

12 (a) The date and time the inventory is made shall be indicated.  
13 The permanent records of the licensee shall indicate the name of  
14 the employee or registrant who performed the inventory.

15 (b) The following items of personal effects are items determined  
16 to present a danger or health hazard when recovered by the licensee  
17 and shall be disposed of in the following manner:

18 (1) Deadly weapons and dangerous drugs shall be turned over  
19 to any law enforcement agency for retention. These items shall be  
20 entered on the inventory and a notation shall be made as to the  
21 date and the time and the place the deadly weapon or dangerous  
22 drug was turned over to the law enforcement agency, and a receipt  
23 from the law enforcement agency shall be maintained in the records  
24 of the repossession agency.

25 (2) Combustibles shall be inventoried and noted as "disposed  
26 of, dangerous combustible," and the item shall be disposed of in  
27 a reasonable and safe manner.

28 (3) Food and other health hazard items shall be inventoried and  
29 noted as "disposed of, health hazard," and disposed of in a  
30 reasonable and safe manner.

31 (c) Personal effects may be disposed of after being held for at  
32 least 60 days. The inventory, and adequate information as to how,  
33 when, and to whom the personal effects were disposed of, shall  
34 be filed in the permanent records of the licensee.

35 (d) The inventory shall include the name, address, business  
36 hours, and telephone number of the repossession agency to contact  
37 for recovering the personal effects and an itemization of all  
38 personal effects removal and storage charges that will be made by  
39 the repossession agency. The inventory shall also include the  
40 following statement: "Please be advised that the property listed

1 on this inventory will be disposed of by the repossession agency  
2 after being held for 60 days from the date of this notice IF  
3 UNCLAIMED.”

4 (e) The inventory shall be provided to a debtor not later than  
5 48 hours after the recovery of the collateral, except that if:

6 (1) The 48-hour period encompasses a Saturday, Sunday, or  
7 postal holiday, the inventory shall be provided no later than 72  
8 hours after the recovery of the collateral.

9 (2) The 48-hour period encompasses a Saturday or Sunday and  
10 a postal holiday, the inventory shall be provided no later than 96  
11 hours after the recovery of the collateral.

12 (3) Inventory resulting from repossession of a yacht, motor  
13 home, or travel trailer is such that it shall take at least four hours  
14 to inventory, then the inventory shall be provided no later than 96  
15 hours after the recovery of the collateral. When the 96-hour period  
16 encompasses a Saturday, Sunday, or postal holiday, the inventory  
17 shall be provided no later than 120 hours after the recovery of the  
18 collateral.

19 (f) Environmental, Olympic, special interest, or other license  
20 plates issued pursuant to Article 8 (commencing with Section  
21 5000), Article 8.4 (commencing with Section 5060) or Article 8.5  
22 (commencing with Section 5100) of Chapter 1 of Division 3 of  
23 the Vehicle Code that remain the personal effects of the debtor  
24 shall be removed from the collateral and inventoried pursuant to  
25 this section. If the plates are not claimed by the debtor within 60  
26 days, they shall *either (1) be effectively destroyed and the licensee*  
27 *shall, within 30 days thereafter, notify the Department of Motor*  
28 *Vehicles of their effective destruction on a form promulgated by*  
29 *the chief that has been approved as to form by the Director of the*  
30 *Department of Motor Vehicles; or (2) be retained by the licensee*  
31 *indefinitely to be returned to the debtor upon request, in which*  
32 *case the licensee shall not charge more than 60 days' storage on*  
33 *the plates.*

34 (g) The notice may be given by regular mail addressed to the  
35 last known address of the debtor or by personal service at the option  
36 of the repossession agency.

37 (h) ~~The~~ *With the consent of the licensee, the* debtor may waive  
38 the preparation and presentation of an inventory if the debtor  
39 redeems the personal effects or other personal property not covered  
40 by a security interest within the time period for the notices required



1 by this section and signs a statement that he or she has received  
2 all the property.

3 (i) If personal effects or other personal property not covered by  
4 a security agreement are to be released to someone other than the  
5 debtor, the repossession agency may request written authorization  
6 to do so from ~~either the debtor or the legal owner~~.

7 (j) The inventory shall be a confidential document. A licensee  
8 shall only disclose the contents of the inventory under the following  
9 circumstances:

10 (1) In response to the order of a court having jurisdiction to  
11 issue the order.

12 (2) In compliance with a lawful subpoena issued by a court of  
13 competent jurisdiction.

14 (3) When the debtor has consented in writing to the release and  
15 the written consent is signed and dated by the debtor subsequent  
16 to the repossession and states the entity or entities to whom the  
17 contents of the inventory may be disclosed.

18 (4) *To the debtor.*

19 *SEC. 83. Section 7507.115 is added to the Business and*  
20 *Professions Code, to read:*

21 *7507.115. A licensee shall not appraise the value of any*  
22 *collateral.*

23 *SEC. 84. Section 7507.12 of the Business and Professions Code*  
24 *is amended to read:*

25 *7507.12. With regard to collateral subject to registration under*  
26 *the Vehicle Code, a repossession is complete when the reposessor*  
27 *gains entry to the collateral or when the collateral becomes*  
28 *connected to a tow truck or the reposessor's tow vehicle, as those*  
29 *terms are defined in Section 615 of the Vehicle Code. No person*  
30 *other than the legal owner may direct a reposessor to release a*  
31 *vehicle without legal authority to do so.*

32 *SEC. 85. Section 7606 of the Business and Professions Code*  
33 *is amended to read:*

34 *7606. The bureau may, pursuant to the provisions of the*  
35 *Administrative Procedure Act, adopt and enforce reasonably*  
36 *necessary rules and regulations relating to:*

37 (a) *The practice of embalming;*

38 (b) *The business of a funeral director;*

1 (c) The sanitary conditions of places where such practice or  
2 business is conducted with particular regard to plumbing, sewage,  
3 ventilation and equipment;

4 (d) Specifying conditions for approval of funeral establishments  
5 for apprentices and for approval of ~~embalming schools~~; *mortuary*  
6 *science programs*.

7 (e) The scope of examinations;

8 (f) Carrying out generally the various provisions of this chapter  
9 for the protection of the peace, health, safety, welfare and morals  
10 of the public.

11 *SEC. 86. Section 7616 of the Business and Professions Code*  
12 *is amended to read:*

13 7616. (a) A licensed funeral establishment is a place of  
14 business conducted in a building or separate portion of a building  
15 having a specific street address or location and devoted exclusively  
16 to those activities as are incident, convenient, or related to the  
17 preparation and arrangements, financial and otherwise, for the  
18 funeral, transportation, burial or other disposition of human remains  
19 and including, but not limited to, either of the following:

20 (1) A suitable room for the storage of human remains.

21 (2) A preparation room equipped with a sanitary flooring and  
22 necessary drainage and ventilation and containing necessary  
23 instruments and supplies for the preparation, sanitation, or  
24 embalming of human remains for burial or transportation.

25 (b) Licensed funeral establishments under common ownership  
26 or by contractual agreement within close geographical proximity  
27 of each other shall be deemed to be in compliance with the  
28 requirements of paragraph (1) or (2) of subdivision (a) if at least  
29 one of the establishments has a room described in those paragraphs.

30 (c) Except as provided in Section 7609, and except accredited  
31 ~~embalming schools and colleges~~ *mortuary science programs*  
32 engaged in teaching students the art of embalming, no person shall  
33 operate or maintain or hold himself or herself out as operating or  
34 maintaining any of the facilities specified in paragraph (2) of  
35 subdivision (a), unless he or she is licensed as a funeral director.

36 (d) Nothing in this section shall be construed to require a funeral  
37 establishment to conduct its business or financial transactions at  
38 the same location as its preparation or storage of human remains.

39 (e) Nothing in this chapter shall be deemed to render unlawful  
40 the conduct of any ambulance service from the same premises as

1 those on which a licensed funeral establishment is conducted,  
2 including the maintenance in connection with the funeral  
3 establishment of garages for the ambulances and living quarters  
4 for ambulance drivers.

5 (f) Every funeral establishment holding a funeral director's  
6 license on December 31, 1996, shall, upon application and payment  
7 of fees for renewal of its funeral director's license, be issued a  
8 funeral establishment license.

9 *SEC. 87. Section 7641 of the Business and Professions Code*  
10 *is amended to read:*

11 7641. It is unlawful for any person to embalm a body, or engage  
12 in, or hold himself or herself out as engaged in practice as an  
13 embalmer, unless he or she is licensed by the bureau. However,  
14 this section shall have no effect on students and instructors of  
15 embalming in ~~embalming colleges~~ *mortuary science programs*  
16 approved by the bureau.

17 *SEC. 88. Section 7643 of the Business and Professions Code*  
18 *is amended to read:*

19 7643. In order to qualify for a license as an embalmer, the  
20 applicant shall comply with all of the following requirements:

21 (a) Be over 18 years of age.

22 (b) Not have committed acts or crimes constituting grounds for  
23 denial of licensure under Section 480.

24 ~~(c) Furnish proof showing completion of a high school course~~  
25 ~~or instead he or she may furnish the bureau with evidence that he~~  
26 ~~or she has been licensed and has practiced as an embalmer for a~~  
27 ~~minimum of three years within the seven years preceding his or~~  
28 ~~her application in any other state or country and that the license~~  
29 ~~has never been suspended or revoked for unethical conduct.~~

30 ~~(d)~~

31 (c) Have completed at least two years of apprenticeship under  
32 an embalmer licensed and engaged in practice as an embalmer in  
33 this state in a funeral establishment which shall have been approved  
34 for apprentices by the bureau and while so apprenticed shall have  
35 assisted in embalming not fewer than 100 human remains;  
36 provided, however, that a person who has been licensed and has  
37 practiced as an embalmer for a minimum of three years within the  
38 seven years preceding his or her application in any other state or  
39 country and whose license has never been suspended or revoked

1 for unethical conduct shall not be required to serve any  
2 apprenticeship in this state.

3 (e)

4 (d) ~~Have successfully completed a course of instruction of not~~  
5 ~~less than one academic year in an embalming school graduated~~  
6 ~~from a mortuary science program~~ approved by the bureau and  
7 accredited by the American Board of Funeral Service Education,  
8 *or its equivalent, as determined by the bureau, and furnished*  
9 *official transcripts from that program or equivalent.*

10 SEC. 89. Section 7646 of the Business and Professions Code  
11 is amended to read:

12 7646. (a) The bureau shall require the applicant to pass ~~an~~  
13 ~~examination, which shall include the following subjects both of~~  
14 ~~the following:~~

15 (a) ~~Theory and practice of embalming.~~

16 (b) ~~Anatomy, including histology, embryology and dissection.~~

17 (c) ~~Pathology and bacteriology.~~

18 (d) ~~Hygiene, including sanitation and public health.~~

19 (e) ~~Chemistry, including toxicology.~~

20 (f) ~~Restorative art, including plastic surgery and demisurgery.~~

21 (g) ~~Laws,~~

22 (1) *The sciences section of the national examination*  
23 *administered by the International Conference of Funeral Service*  
24 *Examining Boards, or its equivalent, as determined by the bureau.*

25 (2) *An examination, administered by the bureau, on the state's*  
26 *laws and the rules and regulations of the bureau, including those*  
27 *sections of the Health and Safety Code which pertain to the funeral*  
28 *industry.*

29 (b) *An applicant who has previously passed the sciences section*  
30 *of the national examination described in paragraph (1) of*  
31 *subdivision (a) shall be deemed to be in compliance with that*  
32 *paragraph.*

33 (c) *An applicant who has previously failed the examination*  
34 *administered by the bureau prior to January 1, 2010, may, until*  
35 *June 30, 2010, retake that examination. If the applicant passes*  
36 *that examination, he or she shall be deemed to be in compliance*  
37 *with this section.*

38 SEC. 90. Section 7647 of the Business and Professions Code  
39 is amended to read:

1     ~~7647. The bureau shall examine applicants for embalmer's~~  
2 ~~licenses at least once annually.~~

3     ~~Examinations shall be held at such times and places as may be~~  
4 ~~determined by the bureau.~~

5     ~~The bureau shall examine applicants for embalmer's licenses at~~  
6 ~~least once annually.~~

7     ~~Notice~~

8     ~~7647. Examinations shall be administered at times and places~~  
9 ~~determined by the bureau and the International Conference of~~  
10 ~~Funeral Service Examining Boards.~~

11     ~~The bureau shall give notice of the time and place of such~~  
12 ~~examinations shall be given as determined by the bureau the~~  
13 ~~examination described in paragraph (2) of subdivision (a) of~~  
14 ~~Section 7646.~~

15     ~~SEC. 91. Section 7662 of the Business and Professions Code~~  
16 ~~is amended to read:~~

17     ~~7662. In order to qualify as an apprentice embalmer, an~~  
18 ~~applicant shall comply with all of the following requirements:~~

19     ~~(a) Be over 18 years of age.~~

20     ~~(b) Not have committed acts or crimes constituting grounds for~~  
21 ~~denial of licensure under Section 480.~~

22     ~~(c) Do one of the following:~~

23     ~~(1) Furnish proof showing completion of a high school course.~~

24     ~~(e)~~

25     ~~(2) Furnish proof showing completion of a high school course~~  
26 ~~or instead he or she may furnish the bureau with evidence that he~~  
27 ~~or she has been licensed and has practiced as an embalmer for a~~  
28 ~~minimum of three years within the seven years preceding his or~~  
29 ~~her application in any other state or country and that the license~~  
30 ~~has never been suspended or revoked for unethical conduct.~~

31     ~~(3) Have graduated from a mortuary science program approved~~  
32 ~~by the bureau and accredited by the American Board of Funeral~~  
33 ~~Service Education, or its equivalent, as determined by the bureau,~~  
34 ~~and furnished official transcripts from that program or equivalent.~~

35     ~~SEC. 92. Section 7665 of the Business and Professions Code~~  
36 ~~is amended to read:~~

37     ~~7665. All registered apprentice embalmers shall comply with~~  
38 ~~the following requirements during their period of apprenticeship:~~

39     ~~(a) Shall file a report of apprenticeship as follows:~~

1 (1) On or before January 15 of each year covering the period  
2 of apprenticeship ending as of December 31 preceding.

3 (2) Upon change of supervising embalmer or employer, or both.

4 (3) Upon completion of apprenticeship.

5 (4) Upon application for leave of absence for a period in excess  
6 of 15 days.

7 (5) Upon suspending apprenticeship to attend ~~embalming college~~  
8 *a mortuary science program*.

9 (6) Upon application for reregistration after suspension or  
10 revocation of registration if a complete report of previous  
11 registration has not been filed.

12 (b) The information contained in the report shall consist of a  
13 concise summary of the work done by the apprentice during the  
14 period covered thereby, shall be verified by the apprentice and  
15 certified to as correct by his or her supervising embalmer and  
16 employer. Upon request of the bureau, each funeral director in  
17 whose establishment an apprenticeship is being, or has been,  
18 served, and each embalmer under whose instruction or supervision  
19 an apprenticeship is being or has been served, shall promptly file  
20 with the bureau a report or such other information as may be  
21 requested relating to the apprenticeship. Failure to comply with  
22 the request is cause for revocation by the bureau of the approval  
23 granted to the funeral director or embalmer for the training of  
24 apprentices and is also a cause for disciplinary action against the  
25 funeral director or embalmer.

26 *SEC. 93. Section 7666 of the Business and Professions Code*  
27 *is amended to read:*

28 7666. (a) The term of apprenticeship shall be two years.  
29 However, if an apprentice after having served his or her  
30 apprenticeship fails to pass the ~~examination~~ *examinations required*  
31 for an embalmer's license, he or she may continue for one  
32 additional term of apprenticeship, which shall be the maximum  
33 apprenticeship permitted and provided further that an apprentice  
34 may, upon filing an application therefor, be permitted to continue  
35 the apprenticeship for a period not to exceed six months, if  
36 approved, for any of the following reasons:

37 (1) While awaiting the processing of applications submitted to  
38 the bureau.

(2) While awaiting notification of grades of ~~embalmers' examinations administered by the bureau~~ *examinations required under Section 7646.*

(3) While awaiting the commencement of a class of ~~an embalming school or college~~ *a mortuary science program* when the apprentice intends to enroll in the ~~school or college~~ *program*.

Applications filed for an extension of apprenticeship shall be filed by the applicant with the bureau not fewer than 15 days prior to the date the applicant requests the extension to commence.

(b) Terms of apprenticeship may be served before, after, or divided by the ~~embalming college course~~ *mortuary science program* at the option of the apprentice; provided, however, that the term of apprenticeship must be completed, excluding time spent in active military service, within six years from the date of original registration, or from the date an apprentice successfully passes the ~~examination~~ *examinations* for an embalmer's license required in Section 7646 of this code, whichever first occurs, and provided further that if the term of apprenticeship is not completed within the six-year period, the bureau may require that the applicant serve the additional term of apprenticeship, not to exceed two years.

(c) A student attending ~~an embalming college~~ *a mortuary science program* may register as an apprentice during ~~his or her college~~ *the program* term but shall receive no credit for apprenticeship on the term required by this code unless he or she is also a full-time employee of a funeral director.

(d) An apprentice while serving his or her required term of apprenticeship shall be a full-time employee in the funeral establishment in which he or she is employed.

SEC. 94. *Section 7671 of the Business and Professions Code is amended to read:*

7671. No person who is a duly registered apprentice or a student at an approved ~~embalming school~~ *mortuary science program* in California at the time of any amendment to this chapter raising the requirements for apprentice embalmers or license as an embalmer, shall be required to comply with the provisions of ~~such~~ *that* amendment.

SEC. 95. *Section 7725.5 of the Business and Professions Code is amended to read:*

1 7725.5. A license ~~which~~ *that* is not renewed within five years  
2 after its expiration may not be renewed, restored, reissued, or  
3 reinstated thereafter. The holder of the expired license may obtain  
4 a new license only if the holder pays all of the fees, and meets all  
5 of the requirements, other than requirements relating to education,  
6 set forth in this chapter for obtaining an original license, except  
7 that the bureau may issue a new license to the holder without an  
8 examination if the holder establishes to the bureau's satisfaction  
9 that, with due regard for the public interest, the holder is qualified  
10 to engage in the activity in which the holder again seeks to be  
11 licensed. The bureau may, by appropriate regulation, provide for  
12 the waiver or refund of all or any part of the application fee in  
13 those cases in which a license is issued without an examination  
14 under this section.

15 The provisions of this section do not apply to certificates of  
16 apprenticeship.

17 *SEC. 96. Section 7729 of the Business and Professions Code*  
18 *is amended to read:*

19 7729. The amount of the fees prescribed by this chapter shall  
20 be fixed according to the following schedule with the minimum  
21 amount specified being the amount fixed on January 1, 1988.

22 (a) The application fee for a funeral director's license shall be  
23 not less than one hundred dollars (\$100) and not more than two  
24 hundred dollars (\$200).

25 (b) The application fee for change of location of a funeral  
26 establishment's license shall be not less than one hundred fifty  
27 dollars (\$150) and not more than two hundred fifty dollars (\$250).

28 (c) The application fee for permission to assign a funeral  
29 establishment's license shall be not less than two hundred dollars  
30 (\$200) and not more than three hundred dollars (\$300).

31 (d) The license renewal fee payable by a licensed funeral director  
32 shall be not less than one hundred dollars (\$100) and not more  
33 than two hundred dollars (\$200). The fee for a delinquent renewal  
34 of a funeral director's license shall be 150 percent of the timely  
35 renewal fee.

36 (e) The application fee for an embalmer's license and the  
37 examination *on the state's laws required under paragraph (2) of*  
38 *subdivision (a) of Section 7646* for the license shall be not less  
39 than one hundred dollars (\$100) and not more than one hundred  
40 fifty dollars (\$150).



1 (f) The renewal fee payable by a licensed embalmer shall be  
2 not less than seventy-five dollars (\$75) and not more than one  
3 hundred twenty-five dollars (\$125). The fee for a delinquent  
4 renewal of an embalmer's license shall be 150 percent of the timely  
5 renewal fee.

6 (g) The application fee for a certificate of registration as an  
7 apprentice embalmer shall be not less than thirty dollars (\$30) and  
8 not more than sixty dollars (\$60).

9 (h) The fee for an application by a funeral establishment for  
10 approval to train apprentice embalmers and for renewal of that  
11 approval shall be not less than fifty dollars (\$50) and not more  
12 than one hundred dollars (\$100).

13 (i) The application fee for a funeral director's examination shall  
14 be not less than seventy-five dollars (\$75) and not more than one  
15 hundred dollars (\$100).

16 (j) The fee for a timely filing of an individual report or a  
17 combined report on preneed trust funds shall be not less than one  
18 hundred dollars (\$100) and not more than two hundred dollars  
19 (\$200). The fee for a late filing of any report on preneed trust funds  
20 shall be 150 percent of the applicable timely fee.

21 (k) The application fee for permission to change the name  
22 appearing on a funeral establishment's license shall be not less  
23 than one hundred dollars (\$100) and not more than two hundred  
24 dollars (\$200), and for permission to change the name on any other  
25 license or certificate, not less than twenty dollars (\$20) and not  
26 more than forty dollars (\$40).

27 (l) The application fee for a duplicate funeral director's license,  
28 a duplicate funeral establishment's license, a duplicate embalmer's  
29 license, or a duplicate certificate of registration as an apprentice  
30 embalmer, shall be not less than twenty dollars (\$20) and not more  
31 than forty dollars (\$40).

32 (m) The fee for filing a report of a change of corporate officers,  
33 managers, or preneed trust fund trustees shall be not less than  
34 twenty-five dollars (\$25) and not more than fifty dollars (\$50).

35 (n) The application fee for a funeral establishment license shall  
36 be not less than three hundred dollars (\$300) and not more than  
37 four hundred dollars (\$400).

38 (o) The license renewal fee for a licensed funeral establishment  
39 shall be not less than three hundred dollars (\$300) nor more than  
40 four hundred dollars (\$400).

1     SEC. 97. *Section 9884.2 of the Business and Professions Code*  
2     *is amended to read:*

3     9884.2. Upon receipt of the form properly filled out and receipt  
4     of the required fee, the director shall ~~validate~~ *issue* the registration  
5     and send a proof of ~~such validation~~ *issuance* to the automotive  
6     repair dealer. The director shall by regulation prescribe ~~conditions,~~  
7     ~~which he~~ *conditions that he or she* determines are necessary to  
8     insure future compliance with this chapter, upon which a person,  
9     whose registration has previously been ~~invalidated~~ *revoked* or has  
10    previously been ~~refused validation~~ *denied* or who has committed  
11    acts prohibited by Section 9884.7 while an automotive repair dealer  
12    or mechanic or while an employee, partner, officer or member of  
13    an automotive repair dealer, may have his *or her* registration  
14    ~~validated~~ *issued*.

15    SEC. 98. *Section 9884.7 of the Business and Professions Code*  
16    *is amended to read:*

17    9884.7. (a) The director, where the automotive repair dealer  
18    cannot show there was a bona fide error, may ~~refuse to validate,~~  
19    ~~deny, or may invalidate temporarily or permanently,~~ *suspend,*  
20    ~~revoke, or place on probation~~ the registration of an automotive  
21    repair dealer for any of the following acts or omissions related to  
22    the conduct of the business of the automotive repair dealer, which  
23    are done by the automotive repair dealer or any automotive  
24    technician, employee, partner, officer, or member of the automotive  
25    repair dealer.

26    (1) Making or authorizing in any manner or by any means  
27    whatever any statement written or oral which is untrue or  
28    misleading, and which is known, or which by the exercise of  
29    reasonable care should be known, to be untrue or misleading.

30    (2) Causing or allowing a customer to sign any work order that  
31    does not state the repairs requested by the customer or the  
32    automobile's odometer reading at the time of repair.

33    (3) Failing or refusing to give to a customer a copy of any  
34    document requiring his or her signature, as soon as the customer  
35    signs the document.

36    (4) Any other conduct ~~which~~ *that* constitutes fraud.

37    (5) Conduct constituting gross negligence.

38    (6) Failure in any material respect to comply with the provisions  
39    of this chapter or regulations adopted pursuant to it.

1 (7) Any willful departure from or disregard of accepted trade  
2 standards for good and workmanlike repair in any material respect,  
3 which is prejudicial to another without consent of the owner or his  
4 or her duly authorized representative.

5 (8) Making false promises of a character likely to influence,  
6 persuade, or induce a customer to authorize the repair, service, or  
7 maintenance of automobiles.

8 (9) Having repair work done by someone other than the dealer  
9 or his or her employees without the knowledge or consent of the  
10 customer unless the dealer can demonstrate that the customer could  
11 not reasonably have been notified.

12 (10) Conviction of a ~~violation of Section 551~~ *crime substantially*  
13 *related to the qualifications, functions, or duties of an automotive*  
14 *repair dealer. A conviction within the meaning of this section*  
15 *means a plea or verdict of guilty or a conviction following a plea*  
16 *of nolo contendere. Any action that the director is permitted to*  
17 *take following the establishment of a conviction may be taken when*  
18 *the time for appeal has elapsed, or the judgment of conviction has*  
19 *been affirmed on appeal, or when an order granting probation is*  
20 *made suspending the imposition of sentence, irrespective of a*  
21 *subsequent order under the provisions of Section 1203.4 of the*  
22 *Penal Code.*

23 Upon ~~refusal to validate~~ *denying* a registration, the director shall  
24 notify the applicant thereof, in writing, by personal service or mail  
25 addressed to the address of the applicant set forth in the application,  
26 and the applicant shall be given a hearing under Section 9884.12  
27 if, within 30 days thereafter, he or she files with the bureau a  
28 written request for hearing, otherwise the ~~refusal~~ *denial* is deemed  
29 affirmed.

30 (b) Except as provided for in subdivision (c), if an automotive  
31 repair dealer operates more than one place of business in this state,  
32 the director pursuant to subdivision (a) shall only ~~invalidate~~  
33 ~~temporarily or permanently~~ *suspend, revoke, or place on probation*  
34 the registration of the specific place of business which has violated  
35 any of the provisions of this chapter. This violation, or action by  
36 the director, shall not affect in any manner the right of the  
37 automotive repair dealer to operate his or her other places of  
38 business.

39 (c) Notwithstanding subdivision (b), the director may ~~invalidate~~  
40 ~~temporarily or permanently~~ *suspend, revoke, or place on probation*

1 the registration for all places of business operated in this state by  
2 an automotive repair dealer upon a finding that the automotive  
3 repair dealer has, or is, engaged in a course of repeated and willful  
4 violations of this chapter, or regulations adopted pursuant to it.

5 *SEC. 99. Section 9884.12 of the Business and Professions Code*  
6 *is amended to read:*

7 9884.12. All proceedings to ~~refuse to validate, or temporarily~~  
8 ~~or permanently to invalidate, deny, suspend, revoke, or place on~~  
9 *probation* a registration shall be conducted pursuant to Chapter 5  
10 (commencing with Section 11500), Part 1, Division 3, Title 2 of  
11 the Government Code.

12 *SEC. 100. Section 9889.3 of the Business and Professions Code*  
13 *is amended to read:*

14 9889.3. The director may suspend, revoke, or take other  
15 disciplinary action against a license as provided in this article if  
16 the licensee or any partner, officer, or director thereof:

17 (a) Violates any section of the Business and Professions Code  
18 ~~which~~ *that* relates to his or her licensed activities.

19 (b) Is convicted of any crime substantially related to the  
20 qualifications, functions ~~and~~, or duties of the licenseholder in  
21 question.

22 (c) Violates any of the regulations promulgated by the director  
23 pursuant to this chapter.

24 (d) Commits any act involving dishonesty, fraud, or deceit  
25 whereby another is injured.

26 (e) Has misrepresented a material fact in obtaining a license.

27 (f) Aids or abets an unlicensed person to evade the provisions  
28 of this chapter.

29 (g) Fails to make and keep records showing his or her  
30 transactions as a licensee, or fails to have the records available for  
31 inspection by the director or his or her duly authorized  
32 representative for a period of not less than three years after  
33 completion of any transaction to which the records refer, or refuses  
34 to comply with a written request of the director to make the record  
35 available for inspection.

36 (h) Violates or attempts to violate the provisions of this chapter  
37 relating to the particular activity for which he or she is licensed.

38 (i) Is convicted of a violation of Section 551 of the Penal Code.

39 *SEC. 101. Section 10146 of the Business and Professions Code*  
40 *is amended to read:*

10146. Any real estate broker who contracts for or collects an advance fee from any other person, hereinafter referred to as the “principal,” shall deposit any such amount or amounts, when collected in a trust account with a bank or other recognized depository. Such funds are trust funds and not the funds of the agent. Amounts may be withdrawn therefrom for the benefit of the agent only when actually expended for the benefit of the principal or five days after the verified accounts mentioned hereinafter have been mailed to the principal. Upon request of the commissioner, a broker shall furnish to the commissioner an authorization for examination of financial records of the trust account in accordance with the procedures set forth in Section 7473 of the Government Code.

The commissioner may issue such rules and regulations as he deems necessary to regulate the method of accounting, and to accomplish the purpose of the provisions of this code relating to advance fees including, but not limited to, establishing forms for and determining information to be included in such accountings. Each principal shall be furnished a verified copy of such accountings at the end of each calendar quarter and when the contract has been completely performed by the licensee. ~~The Real Estate Commissioner~~ *commissioner* shall be furnished a verified copy of any account or all accounts on his *or her* demand therefor.

Where advance fees actually paid by or on behalf of any principal are not handled in accordance with the preceding paragraph, it shall be presumed that the agent has violated Sections 506 and 506a of the Penal Code. The principal may recover treble damages for amounts so misapplied and shall be entitled to reasonable ~~attorneys’~~ *attorney’s* fees in any action brought to recover the same.

*SEC. 102. Section 44014.2 of the Health and Safety Code is amended to read:*

44014.2. (a) The department shall develop a program for the voluntary certification of licensed smog check stations, or the department may accept a smog check station certification program proposed by accredited industry representatives. The certification program, which may be called a “gold shield” program, shall be for the purpose of providing consumers, whose vehicles fail an emissions test at a test-only facility, an option of services at a single

1 location to prevent the necessity for additional trips back to the  
2 test-only facility for vehicle certification.

3 (b) As soon as is practicable, but not later than January 1, 2004,  
4 the department shall adopt regulations that apply to all enhanced  
5 areas of the state, including those areas subject to the enhanced  
6 program pursuant to Section 44003.5, that permit both of the  
7 following:

8 (1) Any vehicle that fails a required smog test at a test-only  
9 facility may be repaired, retested, and certified at a facility licensed  
10 pursuant to Section 44014, and certified pursuant to subdivision  
11 (a).

12 (2) Any vehicle that is identified as a gross polluter may be  
13 repaired, retested, and certified at a facility licensed pursuant to  
14 Section 44014, and certified pursuant to subdivision (a).

15 (c) *Smog check stations that seek voluntary certification under  
16 this section shall enter into an agreement with the department to  
17 provide repair services pursuant to Section 44062.1.*

18 (d) *An agreement made pursuant to this section shall not be  
19 deemed to be a contract subject to the requirements of Part 2  
20 (commencing with Section 10100) of Division 2 of the Public  
21 Contract Code.*

22 *SEC. 103. Section 44017.3 of the Health and Safety Code is  
23 amended to read:*

24 ~~44017.3. (a) Each smog check station shall have posted~~  
25 ~~conspicuously in an area frequented by customers a sign advising~~  
26 ~~of the minimum or maximum amounts established by law to be~~  
27 ~~spent on repairs required to cause a motor vehicle to pass a smog~~  
28 ~~check. The sign shall be required in all stations where smog check~~  
29 ~~inspections are performed. In~~ *The department shall provide a*  
30 *licensed smog check station with a sign informing customers about*  
31 *options when their vehicle fails a biennial smog check inspection,*  
32 *including, but not limited to, the option for qualified consumers*  
33 *to retire vehicles, receive repair assistance, or obtain repair cost*  
34 *waivers. The sign shall include the department's means of contact,*  
35 *including, but not limited to, its telephone number and Internet*  
36 *Web site. This sign shall be posted conspicuously in an area*  
37 *frequented by customers. The sign shall be required in all licensed*  
38 *smog check stations.*

39 (b) *In stations where licensed smog check technician repairs*  
40 *are not performed, the station shall have posted conspicuously in*

1 an area frequented by customers a statement that repair technicians  
2 are not available and repairs are not performed.

3 ~~(b) The specific amounts enumerated on the sign shall be~~  
4 ~~consistent with Section 44017 and shall also refer to the exceptions~~  
5 ~~in subdivision (d) of Section 44017.~~

6 ~~(e) The sign shall include language, as determined by the~~  
7 ~~department, to warn consumers of the penalties for obtaining a~~  
8 ~~certificate or economic hardship extension by means of fraud.~~

9 *SEC. 104. Section 44072.1 of the Health and Safety Code is*  
10 *amended to read:*

11 44072.1. The director may deny a license if the applicant, or  
12 any partner, officer, or director thereof, does any of the following:

13 (a) Fails to meet the qualifications established by the bureau  
14 pursuant to Articles 2 (commencing with Section 44010) and 3  
15 (commencing with Section 44030) and the regulations adopted for  
16 the issuance of the license applied for.

17 (b) Was previously the holder of a license issued under this  
18 chapter, which license has been revoked and never reissued or  
19 which license was suspended and the terms of the suspension have  
20 not been fulfilled.

21 (c) Has committed any act ~~which~~ *that*, if committed by any  
22 licensee, would be grounds for the suspension or revocation of a  
23 license issued pursuant to this chapter.

24 (d) Has committed any act involving dishonesty, fraud, or deceit  
25 whereby another is injured or whereby the applicant has benefited.

26 (e) Has acted in the capacity of a licensed person or firm under  
27 this chapter without having a license therefor.

28 (f) Has entered a plea of guilty or nolo contendere to, or been  
29 found guilty of, or been convicted of a crime substantially related  
30 to the qualifications, functions, ~~and~~ *or* duties of the licenseholder  
31 in question, and the time for appeal has elapsed or the judgment  
32 of conviction has been affirmed on appeal, irrespective of an order  
33 granting probation following the conviction, suspending the  
34 imposition of sentence, or of a subsequent order under Section  
35 1203.4 of the Penal Code allowing the person to withdraw a plea  
36 of guilty and to enter a plea of not guilty, or setting aside the plea  
37 or verdict of guilty, or dismissing the accusation or information.

38 *SEC. 105. Section 44072.2 of the Health and Safety Code is*  
39 *amended to read:*

1 44072.2. The director may suspend, revoke, or take other  
2 disciplinary action against a license as provided in this article if  
3 the licensee, or any partner, officer, or director thereof, does any  
4 of the following:

5 (a) Violates any section of this chapter and the regulations  
6 adopted pursuant to it, which related to the licensed activities.

7 (b) Is convicted of any crime substantially related to the  
8 qualifications, functions, ~~and~~ or duties of the licenseholder in  
9 question.

10 (c) Violates any of the regulations adopted by the director  
11 pursuant to this chapter.

12 (d) Commits any act involving dishonesty, fraud, or deceit  
13 whereby another is injured.

14 (e) Has misrepresented a material fact in obtaining a license.

15 (f) Aids or abets unlicensed persons to evade the provisions of  
16 this chapter.

17 (g) Fails to make and keep records showing his or her  
18 transactions as a licensee, or fails to have those records available  
19 for inspection by the director or his or her duly authorized  
20 representative for a period of not less than three years after  
21 completion of any transaction to which the records refer, or refuses  
22 to comply with a written request of the director to make the records  
23 available for inspection.

24 (h) Violates or attempts to violate the provisions of this chapter  
25 relating to the particular activity for which he or she is licensed.

26 *SEC. 106. Section 44095 of the Health and Safety Code is*  
27 *amended to read:*

28 44095. (a) The department shall administer the program in  
29 accordance with regulations adopted by the department.

30 (b) (1) Nothing in this article shall be construed as superseding  
31 or precluding any similar program that is administered by a district,  
32 any other public agency, or any other person.

33 (2) The state board shall develop a methodology for, and shall  
34 undertake, a uniform data analysis of the program operated  
35 pursuant to this article and any similar programs operated in this  
36 state for the purpose of providing an accounting of the emission  
37 reductions that are achieved by all such programs.

38 (c) The department may directly operate the program or may  
39 provide for the program's operation pursuant to ~~contract~~ *an*  
40 *agreement*. The department may ~~contract~~ *enter into an agreement*



1 with local agencies, community colleges, *air quality management*  
2 *districts*, or private entities to perform all or any portion of the  
3 program.

4 ~~SEC. 56.~~

5 *SEC. 107.* Section 123105 of the Health and Safety Code is  
6 amended to read:

7 123105. As used in this chapter:

8 (a) “Health care provider” means any of the following:

9 (1) A health facility licensed pursuant to Chapter 2 (commencing  
10 with Section 1250) of Division 2.

11 (2) A clinic licensed pursuant to Chapter 1 (commencing with  
12 Section 1200) of Division 2.

13 (3) A home health agency licensed pursuant to Chapter 8  
14 (commencing with Section 1725) of Division 2.

15 (4) A physician and surgeon licensed pursuant to Chapter 5  
16 (commencing with Section 2000) of Division 2 of the Business  
17 and Professions Code or pursuant to the Osteopathic Act.

18 (5) A podiatrist licensed pursuant to Article 22 (commencing  
19 with Section 2460) of Chapter 5 of Division 2 of the Business and  
20 Professions Code.

21 (6) A dentist licensed pursuant to Chapter 4 (commencing with  
22 Section 1600) of Division 2 of the Business and Professions Code.

23 (7) A psychologist licensed pursuant to Chapter 6.6  
24 (commencing with Section 2900) of Division 2 of the Business  
25 and Professions Code.

26 (8) An optometrist licensed pursuant to Chapter 7 (commencing  
27 with Section 3000) of Division 2 of the Business and Professions  
28 Code.

29 (9) A chiropractor licensed pursuant to the Chiropractic Initiative  
30 Act.

31 (10) A marriage and family therapist licensed pursuant to  
32 Chapter 13 (commencing with Section 4980) of Division 2 of the  
33 Business and Professions Code.

34 (11) A clinical social worker licensed pursuant to Chapter 14  
35 (commencing with Section 4990) of Division 2 of the Business  
36 and Professions Code.

37 (12) A physical therapist licensed pursuant to Chapter 5.7  
38 (commencing with Section 2600) of Division 2 of the Business  
39 and Professions Code.

1 (13) An occupational therapist licensed pursuant to Chapter 5.6  
2 (commencing with Section 2570).

3 (b) “Mental health records” means patient records, or discrete  
4 portions thereof, specifically relating to evaluation or treatment of  
5 a mental disorder. “Mental health records” includes, but is not  
6 limited to, all alcohol and drug abuse records.

7 (c) “Patient” means a patient or former patient of a health care  
8 provider.

9 (d) “Patient records” means records in any form or medium  
10 maintained by, or in the custody or control of, a health care  
11 provider relating to the health history, diagnosis, or condition of  
12 a patient, or relating to treatment provided or proposed to be  
13 provided to the patient. “Patient records” includes only records  
14 pertaining to the patient requesting the records or whose  
15 representative requests the records. “Patient records” does not  
16 include information given in confidence to a health care provider  
17 by a person other than another health care provider or the patient,  
18 and that material may be removed from any records prior to  
19 inspection or copying under Section 123110 or 123115. “Patient  
20 records” does not include information contained in aggregate form,  
21 such as indices, registers, or logs.

22 (e) “Patient’s representative” or “representative” means any of  
23 the following:

24 (1) A parent or guardian of a minor who is a patient.

25 (2) The guardian or conservator of the person of an adult patient.

26 (3) An agent as defined in Section 4607 of the Probate Code,  
27 to the extent necessary for the agent to fulfill his or her duties as  
28 set forth in Division 4.7 (commencing with Section 4600) of the  
29 Probate Code.

30 (4) The beneficiary as defined in Section 24 of the Probate Code  
31 or personal representative as defined in Section 58 of the Probate  
32 Code, of a deceased patient.

33 (f) “Alcohol and drug abuse records” means patient records, or  
34 discrete portions thereof, specifically relating to evaluation and  
35 treatment of alcoholism or drug abuse.

36 *SEC. 108. Section 28 of the Vehicle Code is amended to read:*

37 28. (a) Whenever possession is taken of any vehicle by or on  
38 behalf of any legal owner thereof under the terms of a security  
39 agreement or lease agreement, the person taking possession shall  
40 notify, within one hour after taking possession of the vehicle, and

by the most expeditious means available, the city police department where the taking of possession occurred, if within an incorporated city, or the sheriff's department of the county where the taking of possession occurred, if outside an incorporated city, or the police department of a campus of the University of California or the California State University, if the taking of possession occurred on that campus, and shall within one business day forward a written notice to the city police or sheriff's department.

*(b) If possession is taken of more than one vehicle, the possession of each vehicle shall be considered and reported as a separate event.*

~~(b)~~

*(c)* Any person failing to notify the city police department, sheriff's department, or campus police department as required by this section is guilty of an infraction, and shall be fined a minimum of three hundred dollars (\$300), and up to five hundred dollars (\$500). The district attorney, city attorney, or city prosecutor shall promptly notify the Bureau of Security and Investigative Services of any conviction resulting from a violation of this section.

*SEC. 109. Section 5201 of the Vehicle Code is amended to read:*

5201. License plates shall at all times be securely fastened to the vehicle for which they are issued so as to prevent the plates from swinging, shall be mounted in a position so as to be clearly visible, and shall be maintained in a condition so as to be clearly legible. The rear license plate shall be mounted not less than 12 inches nor more than 60 inches from the ground, and the front license plate shall be mounted not more than 60 inches from the ground, except as follows:

(a) The rear license plate on a tow truck *or reposessor's tow vehicle* may be mounted on the left-hand side of the mast assembly at the rear of the cab of the vehicle, not less than 12 inches nor more than 90 inches from the ground.

(b) The rear license plate on a tank vehicle hauling hazardous waste, as defined in Section 25117 of the Health and Safety Code, or asphalt material may be mounted not less than 12 inches nor more than 90 inches from the ground.

(c) The rear license plate on a truck tractor may be mounted at the rear of the cab of the vehicle, but not less than 12 inches nor more than 90 inches from the ground.

(d) The rear license plate of a vehicle designed by the manufacturer for the collection and transportation of garbage, rubbish, or refuse that is used regularly for the collection and transportation of that material by any person or governmental entity employed to collect, transport, and dispose of garbage, rubbish, or refuse may be mounted not less than 12 inches nor more than 90 inches from the ground.

(e) The rear license plate on a two-axle livestock trailer may be mounted 12 inches or more, but not more than 90 inches, from the ground.

(f) A covering shall not be used on license plates except as follows:

(1) The installation of a cover over a lawfully parked vehicle to protect it from the weather and the elements does not constitute a violation of this subdivision. Any peace officer or other regularly salaried employee of a public agency designated to enforce laws, including local ordinances, relating to the parking of vehicles may temporarily remove so much of the cover as is necessary to inspect any license plate, tab, or indicia of registration on a vehicle.

(2) The installation of a license plate security cover is not a violation of this subdivision if the device does not obstruct or impair the recognition of the license plate information, including, but not limited to, the issuing state, license plate number, and registration tabs, and the cover is limited to the area directly over the top of the registration tabs. No portion of a license plate security cover shall rest over the license plate number.

(g) A casing, shield, frame, border, product, or other device that obstructs or impairs the reading or recognition of a license plate by an electronic device operated by state or local law enforcement, an electronic device operated in connection with a toll road, high-occupancy toll lane, toll bridge, or other toll facility, or a remote emission sensing device, as specified in Sections 44081 and 44081.6 of the Health and Safety Code, shall not be installed on, or affixed to, a vehicle.

(h) (1) It is the intent of the Legislature that an accommodation be made to persons with disabilities and to those persons who regularly transport persons with disabilities, to allow the removal and relocation of wheelchair lifts and wheelchair carriers without the necessity of removing and reattaching the vehicle's rear license plate. Therefore, it is not a violation of this section if the reading

1 or recognition of a rear license plate is obstructed or impaired by  
2 a wheelchair lift or wheelchair carrier and all of the following  
3 requirements are met:

4 (A) The owner of the vehicle has been issued a special  
5 identification license plate pursuant to Section 5007, or the person  
6 using the wheelchair that is carried on the vehicle has been issued  
7 a distinguishing placard under Section 22511.55.

8 (B) (i) The operator of the vehicle displays a decal, designed  
9 and issued by the department, that contains the license plate number  
10 assigned to the vehicle transporting the wheelchair.

11 (ii) The decal is displayed on the rear window of the vehicle,  
12 in a location determined by the department, in consultation with  
13 the Department of the California Highway Patrol, so as to be clearly  
14 visible to law enforcement.

15 (2) Notwithstanding any other provision of law, if a decal is  
16 displayed pursuant to this subdivision, the requirements of this  
17 code that require the illumination of the license plate and the  
18 license plate number do not apply.

19 (3) The department shall adopt regulations governing the  
20 procedures for accepting and approving applications for decals,  
21 and issuing decals, authorized by this subdivision.

22 (4) This subdivision does not apply to a front license plate.

23 *SEC. 110. Section 24603 of the Vehicle Code is amended to*  
24 *read:*

25 24603. Every motor vehicle ~~which~~ *that* is not in combination  
26 with any other vehicle and every vehicle at the end of a  
27 combination of vehicles shall at all times be equipped with  
28 stoplamps mounted on the rear as follows:

29 (a) Every such vehicle shall be equipped with one or more  
30 stoplamps.

31 (b) Every such vehicle, other than a motorcycle, manufactured  
32 and first registered on or after January 1, 1958, shall be equipped  
33 with two stoplamps, except that trailers and semitrailers  
34 manufactured after July 23, 1973, which are less than 30 inches  
35 wide, may be equipped with one stoplamp which shall be mounted  
36 at or near the vertical centerline of the trailer. If such vehicle is  
37 equipped with two stoplamps, they shall be mounted as specified  
38 in subdivision (d).

39 (c) Except as provided in subdivision (h), stoplamps on vehicles  
40 manufactured on or after January 1, 1969, shall be mounted not

1 lower than 15 inches nor higher than 72 inches, except that a tow  
2 truck *or a reposessor's tow vehicle*, in addition to being equipped  
3 with the required stoplamps, may also be equipped with two  
4 stoplamps which may be mounted not lower than 15 inches nor  
5 higher than the maximum allowable vehicle height and as far  
6 forward as the rearmost portion of the driver's seat in the rearmost  
7 position.

8 (d) Where two stoplamps are required, at least one shall be  
9 mounted at the left and one at the right side, respectively, at the  
10 same level.

11 (e) Stoplamps on vehicles manufactured on or after January 1,  
12 1979, shall emit a red light. Stoplamps on vehicles manufactured  
13 before January 1, 1979, shall emit a red or yellow light. All  
14 stoplamps shall be plainly visible and understandable from a  
15 distance of 300 feet to the rear both during normal sunlight and at  
16 nighttime, except that stoplamps on a vehicle of a size required to  
17 be equipped with clearance lamps shall be visible from a distance  
18 of 500 feet during ~~such~~ *those* times.

19 (f) Stoplamps shall be activated upon application of the service  
20 (foot) brake and the hand control head for air, vacuum, or electric  
21 brakes. In addition, all stoplamps may be activated by a mechanical  
22 device designed to function only upon sudden release of the  
23 accelerator while the vehicle is in motion. Stoplamps on vehicles  
24 equipped with a manual transmission may be manually activated  
25 by a mechanical device when the vehicle is downshifted if the  
26 device is automatically rendered inoperative while the vehicle is  
27 accelerating.

28 (g) Any vehicle may be equipped with supplemental stoplamps  
29 mounted to the rear of the rearmost portion of the driver's seat in  
30 its rearmost position in addition to the lamps required to be  
31 mounted on the rear of the vehicle. Supplemental stoplamps  
32 installed after January 1, 1979, shall be red in color and mounted  
33 not lower than 15 inches above the roadway. The supplemental  
34 stoplamp on that side of a vehicle toward which a turn will be  
35 made may flash as part of the supplemental turn signal lamp.

36 A supplemental stoplamp may be mounted inside the rear  
37 window of a vehicle, if it is mounted at the centerline of the vehicle  
38 and is constructed and mounted so as to prevent any light, other  
39 than a monitorial indicator emitted from the device, either direct  
40 or reflected, from being visible to the driver.

(h) Any supplemental stoplamp installed after January 1, 1987, shall comply with Federal Motor Vehicle Safety Standard No. 108 (49 C.F.R. 571.108). Any vehicle equipped with a stoplamp ~~which~~ *that* complies with the federal motor vehicle safety standards applicable to that make and model vehicle shall conform to that applicable safety standard unless modified to comply with the federal motor vehicle safety standard designated in this subdivision.

~~SEC. 57.~~

*SEC. 111.* Section 3 of Chapter 294 of the Statutes of 2004 is amended to read:

Sec. 3. The sum of one hundred thirty-eight thousand dollars (\$138,000) in the 2004–05 fiscal year, and the sum of two hundred sixty-four thousand dollars (\$264,000) in the 2005–06 fiscal year and subsequent fiscal years, is hereby appropriated from the State Dental Hygiene Fund to the Dental Hygiene Committee of California for operating expenses necessary to manage the dental hygiene licensing examination.

~~SEC. 58.~~

*SEC. 112.* No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.